

(H. B. 2864)  
(Conference)

**(No. 68-2016)**

(Approved July 12, 2016)

**AN ACT**

To amend Sections 103, 105, 106, 201, 202, 203, 204, and 206 of the Spanish text of Act No. 21-2016, known as the “Puerto Rico Emergency Moratorium and Rehabilitation Act” (Act No. 21); amend Sections 103, 105, 106, 201, 202, 203, and 204 of the English text of Act No. 21; make technical amendments to accord the Spanish and English versions of Act No. 21 and correct certain references, amend the definitions of “government entity,” “debt instrument,” “enumerated obligation,” “minimum public debt payment,” and “emergency period”; modify certain provisions related to immunities, hiring of workers by certain government entities, prioritization of essential services, conditions of emergency period, emergency Bank measures (including suspending any type of requirement to deposit funds in the Bank and allowing the withdrawal of funds from the accounts of the municipalities,) collateral, security interests, and priorities and debt issuance by a government entity; eliminate the Spanish and English texts of Chapter 6 of Act No. 21 and substitute them in their entirety for a new Chapter 6 to create the New Puerto Rico Fiscal Agency and Financial Advisory Authority (hereinafter, the “Fiscal Authority”) with an effective date retroactive to April 6, 2016, which shall act as fiscal agent, financial advisor, and reporting agent of the Commonwealth; establish the powers and duties of the Fiscal Authority; amend Sections 3, 7, and 14 of Act No. 15-2016, as amended; create the “Puerto Rico Aqueduct and Sewer Authority Revitalization Act”; and amend Sections 3 and 11, add a new Section 22 and renumber Sections 22 through 24 as Sections 23 through 25, respectively in Act No. 40 of May 1, 1945 as amended, in order to create the “Puerto Rico Aqueduct and Sewer Authority Revitalization Corporation”; provide for its organization, powers, and purposes, address the financing and development of the Aqueduct and Sewer Authority through this new instrument; and define the process to authorize and issue debt; and for other related purposes.

## STATEMENT OF MOTIVES

The recently approved Act No. 21-2016, “Puerto Rico Emergency Moratorium and Rehabilitation Act,” empowers the Governor with narrowly tailored authority, within the bounds of our body of laws and our Constitution, to enable the Commonwealth and its instrumentalities to continue providing essential services to Puerto Rico’s residents while addressing the critical need for structural and fiscal reform and debt restructuring. The Act provides for moratorium measures that are temporary in nature and only apply upon a finding by the Governor that invoking the provisions of the Act is necessary to provide for the health, safety and welfare of the residents of the Commonwealth. Further, such measures (including the stay on creditor actions) are invoked on an entity-by-entity basis. Act No. 22 [sic], *supra*, seeks only to empower the Commonwealth to delay payment on certain obligations while protecting creditor rights, and serves its utmost duty to protect the citizens of Puerto Rico

Likewise, Act No. 21-2016, amended Act No. 17 of September 23, 1948, as amended, better known as the “Organic Act of the Government Development Bank for Puerto Rico,” to modify the rules and processes relating to a potential receivership, among other things. These measures provide for receivership, reorganization or rehabilitation as an alternative to the liquidation initially contemplated under Act No. 17, *supra*.

However, Act No. 21-2016, as well as several other instances related to the Government Development Bank and the Puerto Rico Fiscal Agency and Financial Advisory Authority require some technical amendments and clarifying provisions that are incorporated hereunder. The purpose of said amendments is to allow Act No. 21-2016 to effectively address the issue of the obligations incurred by the different Commonwealth entities in an organized manner, in order to prevent the essential services rendered to the People from being affected. Thus, in seeking to

achieve such purpose, another issue needs to be addressed: the obligations of the Aqueduct and Sewer Authority (“PRASA” or the “Authority”). After all, the management of the Authority’s debt affects the cost of rendering such an essential service for the People, that is, the distribution of drinking water and the maintenance of sewers systems.

PRASA’s legislation is not foreign to the original purposes of the amendments to Act No. 21-2016, since it complies with the constitutional rule, which requires that only one subject be expressed in the title and the matter regulated. Said rule is not designed as a subterfuge to destroy valid legislation, but rather it is construed liberally, without undermining the purpose and objective of the constitutional rule. In that sense, “[a] statute may include all matters consistent with the main subject and all means that may be fairly considered as accessory and necessary or appropriate to attain the purposes of the general matter.” See, *Bomberos Unidos v. Cuerpo de Bomberos*, 180 D.P.R. 723 (2011).

The possibility of declaring a state of emergency notwithstanding, the purpose of this Act is to set forth as the public policy of this Administration to conduct a financial restructuring voluntarily reaching agreements with the creditors of the Government. Thus, this Act provides the Aqueduct and Sewer Authority (PRASA or the Authority) with the necessary tools whereby Puerto Rico may have access to capital markets and whereby the Authority becomes a self-sustainable entity upon implementing the best practices and technologies of the industry. The opportunity to offer an efficient, safe, reliable, and environmentally-friendly service and, most of all, a stable rate to its customers shall promote Puerto Rico’s economic growth. Although the Authority has achieved great progress, particularly during the last decade, it has yet to overcome many challenges and a long way to go, and this situation should be addressed responsibly. For such reason, the necessary efforts to achieve its transformation have been and shall continue to be implemented. The

Authority must direct its efforts to devise, in accordance with prudent financial standards, a self-sustainable Capital Improvement Plan (CIP) that is not dependent in whole or in part on external financing. This legislation and the support of all interested parties are necessary to attain the goals of the Authority for the benefit of all Puerto Ricans as well as of generations to come.

It is worth noting that these efforts need the strong support of all interested parties. The success of the Authority's transformation depends on all of us bearing together social and financial burdens to ensure that we move on the same direction. Rescuing the Authority is responsibility of all interested parties, including the creditors, customers, and employees thereof as well as the municipalities. Therefore, to accomplish the mission of the Authority and this Administration, we must transform the Authority by providing it with the resources that will allow it to succeed.

Furthermore, technical amendments and clarifying provisions are hereby incorporated into Act No. 21-2016.

***BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:***

**CHAPTER I – TECHNICAL AMENDMENTS RELATING TO ACT NO. 21-2016, TO THE PUERTO RICO FISCAL AGENCY AND FINANCIAL ADVISORY AUTHORITY, AND THE GOVERNMENT DEVELOPMENT BANK**

Section 1.- The title of Act No. 21-2016 is hereby amended to read as follows:

“To create the ‘Puerto Rico Emergency Moratorium and Rehabilitation Act’; provide for the declaration of a state of fiscal emergency by the Legislative Assembly; establish the process for the declaration, establishment, and the conditions of the emergency period, as defined by this Act, for the Bank or any other government entity, as both terms are defined in this Act, and provide for the powers of the Governor of the Commonwealth of Puerto Rico; amend the ‘Organic Act of

the Government Development Bank for Puerto Rico,’ Act No. 17 of September 23, 1948, as amended, in order to renumber Sections 12 through 21 as Sections 15 through 24, and add new Sections 12 and 13 to modify the process to appoint a receiver; add a new Section 14 to Act No. 17 of September 23, 1948, *supra*, to authorize the organization and operation of a bridge bank; amend the Fourth Part of Section 2 of Act No. 17 of September 23, 1948, *supra*, to modify the provisions relating to the subsidiaries of the Government Development Bank for Puerto Rico to create the Puerto Rico Fiscal Agency and Financial Advisory Authority, a new public corporation and government instrumentality of the Commonwealth of Puerto Rico which shall act as fiscal agent, financial advisor, and reporting agent of the Commonwealth of Puerto Rico, its public corporations, instrumentalities, and municipalities; amend Section 11 of Act No. 22 of July 24, 1985, as amended, corresponding to the Organic Act of the Puerto Rico Economic Development Bank in order to modify the provision relating to the appointment of a receiver; and for other related purposes.”

Section 2.- The Spanish text of Section 103 of Act No. 21-2016, is hereby amended to read as follows:

“Artículo 103.-Definiciones

Las siguientes palabras y términos, cuando se usen o se haga referencia a ellos en los Capítulos 1, 2, 6 y 7 de esta Ley, tendrán los significados que se establecen a continuación:

(a) ...

...

(q) “Entidad gubernamental” – significa cualquiera de las siguientes entidades:

(i) AFICA; AMA; cada Banco y cualquier subsidiaria de éstos, ADCC; COFINA; Estado Libre Asociado; Sistema de Retiro; AFV; ACT; AEP; PFC; AAA; AEE; PRIDCO; AFI; la Autoridad de los Puertos de Puerto Rico; y UPR; y

(ii) ...

Independientemente de cualquier disposición de esta Ley, una entidad gubernamental que sea parte de un Acuerdo con Acreedores sólo se considerará una “entidad gubernamental” antes de que se lleve a cabo la reestructuración financiera contemplada en dicho Acuerdo con Acreedores (por ejemplo, y sin que se entienda como una limitación, la emisión inicial de bonos de titulización (securitization) a cambio de bonos en circulación emitidos por dicha entidad gubernamental de acuerdo con un Acuerdo con Acreedores) y, en dicho caso, solamente si: (1) se da por terminado el Acuerdo con Acreedores o (2) cualquier tenedor o beneficiario de un instrumento de deuda emitido por dicha entidad gubernamental comienza una acción legal contra dicha entidad gubernamental para ejercer cualquier derecho o remedio bajo un instrumento de deuda. Para propósitos de esta definición, “Acuerdo con Acreedores” significa un acuerdo entre una entidad gubernamental y ciertos acreedores de dicha entidad gubernamental, incluyendo un acuerdo consensual de reestructuración de su deuda, según sea enmendado, suplementado o reinstalado de tiempo en tiempo, independiente de que el mismo esté titulizado o no.

u) “Instrumento de deuda” - incluye cualquier documento u otro instrumento para, utilizado con relación a, o relacionado a:

i. ...

...

vii. ...

Disponiéndose, que, “instrumento de deuda” no incluirá un contrato para la prestación de bienes o servicios ni incluirá un contrato de procesamiento de cheques u otro contrato bajo el cual una institución financiera provea servicios al Banco o a otra entidad gubernamental.

- v) ...
- w) ...
- x) “Obligación cubierta” - significa (1) cualquier obligación de principal, obligación de intereses u obligación enumerada de una entidad gubernamental, pagadera durante el periodo de emergencia con respecto a una entidad gubernamental; (2) cualquier obligación que resulte de, o esté relacionada con, la garantía, extendida por una entidad gubernamental, de cualquier obligación de otra entidad que sea pagadera o advenga pagadera durante el periodo de emergencia y; (3) si lo provee una orden emitida bajo la Sección 201 (d) de esta Ley, la transferencia de, o la obligación de transferir, fondos antes de, o en la fecha que vence, cualquier obligación identificada en las cláusulas (1) y (2), que proceden si se declara en un estado de emergencia para dicha entidad gubernamental, por Orden Ejecutiva del Gobernador, según enmendada de tiempo en tiempo y según lo contempla el Artículo 201(a) de esta Ley, pero no incluirá –
  - (i) cualquier obligación de un asegurador de pagar bajo cualquier póliza relacionada a cualquier obligación de principal, obligación de intereses u obligación enumerada que hubiese vencido según los términos de cualquier ley o documento si esta Ley no se hubiese aprobado;
  - (ii) cualquier obligación (o parte de), a menos que se disponga lo contrario en una Orden Ejecutiva, cuyo pago pueda hacerse sólo de dinero que esté depositado con un fiduciario u otro custodio antes del comienzo del periodo de emergencia para el deudor de dicha obligación y cuyo dinero esté pignorado para el propósito principal de pagar dicha obligación (o parte de) cuando sea pagadera;
  - (iii) ...
  - (iv) ...
  - (v) ...

- (vi) cualquier emisión de deuda por una entidad gubernamental después de la promulgación de esta Ley, si el Gobernador certifica que dicha deuda estará excluida irrevocablemente de la definición de “obligación cubierta” según este Artículo, para los propósitos de esta Ley.
- (y) ...
- (z) ...
- (aa) “Obligación enumerada” significa cualquier obligación que se identifique específicamente o por categoría en una orden ejecutiva, según enmendada de tiempo en tiempo, emitida conforme al Artículo 201(a) de esta Ley, cuya obligación, sea contingente o no contingente, sea exigible o no puede surgir de cualquier contrato o acuerdo, incluyendo cualquier instrumento financiero, instrumento de deuda o arrendamiento no expirado, cualquier obligación de pago del principal de, prima de si alguna, interés sobre sanciones, reembolsos o indemnización equivalente, honorarios, gastos u otros importes correspondientes a cualquier deuda, cualquier obligación, sea contingente o no, y cualquier otro acuerdo o instrumento que contemple cantidades o beneficios pagaderos por una entidad gubernamental a cualquier persona; disponiéndose que una “obligación enumerada” no incluirá ninguna obligación de principal ni obligación de intereses del Banco o dicha entidad gubernamental una obligación que surja de algún contrato para la prestación de bienes o servicios a una entidad gubernamental ni incluirá una obligación que surja de un contrato de procesamiento de cheques u otro contrato bajo el cual una institución financiera provea servicios al Banco o a una entidad gubernamental.
- (bb) “Pago mínimo de deuda pública”- significa, con respecto a una obligación cubierta que sea una obligación de principal u obligación de intereses de deuda pública –
  - i. una cantidad determinada por el Gobernador, luego de consultar con el Secretario de Hacienda, consistente con la Constitución del Estado Libre Asociado, cuya cantidad puede ser calculada como la diferencia entre la cantidad de recursos disponibles proyectados para el periodo de emergencia aplicable y los gastos proyectados para los servicios públicos esenciales durante dicho



periodo, aplicados proporcionalmente a todos los tenedores de obligaciones cubiertas que sean obligaciones de intereses de deuda pública que sean pagaderas o que se proyecta serán pagaderas y exigibles durante el periodo de emergencia aplicable (excluyendo las cantidades diferidas o acumuladas que serán pagaderas el último día de dicho periodo de emergencia como resultado de esta Ley) y, si se satisfacen las obligaciones de intereses de deuda pública en su totalidad, cualquier remanente de recursos disponibles se aplicará proporcionalmente entre todos los tenedores de obligaciones cubiertas que sean obligaciones de principal de deuda pública y que sean pagaderas o que se proyecta serán pagaderas y exigibles durante el periodo de emergencia aplicable (excluyendo las cantidades diferidas o acumuladas que serán pagaderas el último día de dicho periodo de emergencia como resultado de esta Ley); disponiéndose que el pago mínimo de deuda pública en esta cláusula (i) no tendrá que hacerse en su totalidad en un solo pago si dicha cantidad excede los recursos disponibles del Estado Libre Asociado que estén disponibles para hacer dicho pago, incluyendo aquellos recursos sujetos a cualquier orden ejecutiva o ley aplicable que desvíe dichos recursos disponibles para el pago de la deuda pública; y

ii. el monto completo de dicha obligación si dicha obligación vence antes del 30 de junio de 2016.

cc) “Periodo de emergencia” - significa, con respecto a cualquier entidad gubernamental, el periodo que comienza en la fecha que designe el Gobernador en una Orden Ejecutiva, según enmendada de tiempo en tiempo, emitida bajo el Artículo 201(a) de esta Ley con respecto a una entidad gubernamental, y que termina en la fecha en que designe el Gobernador mediante Orden Ejecutiva, que no podrá ser después del último día del periodo cubierto.

dd) ...”

Section 3.- The Spanish text of Section 105 of Act No. 21-2016, is hereby amended to read as follows:

“Artículo 105.-Inmunidades

- a) ...
- b) Ninguna institución financiera o agente de ésta que provea servicios de procesamiento de cheques u otros servicios financieros al Banco o cualquier otra entidad gubernamental bajo cualquier acuerdo con el Banco o con dicha entidad gubernamental, tendrá responsabilidad alguna, ya sea civil, criminal u otra, por, y sin notificación u orden adicional, serán exonerados de, acciones u omisiones relacionadas a dicho acuerdo, ni por transferencias o retiros de depósitos u otros fondos hechos bajo dicho acuerdo, si un tribunal determina que dicha transferencia o retiro viola esta Ley, la Ley Núm. 17 de 23 de septiembre de 1948, según enmendada, la Ley Núm. 22 de 24 de junio de 1985, según enmendada, o las Secciones 1243, 1244 o 1249 del Código Civil de Puerto Rico o cualquier regulación u Orden Ejecutiva emitida bajo esta Ley o bajo dichas leyes o cualquier disposición o ley similar o análoga.
- c) Cualquier institución financiera en la cual se deposite un cheque emitido por cualquier entidad gubernamental o que reciba cualquier otra instrucción de una entidad gubernamental para transferir fondos podrá honrar dicho cheque o instrucción en el curso ordinario de sus operaciones bancarias sin indagar sobre si se cumplieron los requisitos de esta Ley o de cualquier Orden Ejecutiva emitida bajo esta Ley. El Banco y las entidades gubernamentales serán los únicos responsables por el cumplimiento con cualquier disposición de esta Ley o cualquier regulación u Orden Ejecutiva emitida bajo esta Ley que restrinja el uso de fondos públicos o la emisión de cheques o que imponga otras restricciones relacionadas a fondos públicos en manos de dichas instituciones financieras.
- d) Cualquier acción presentada por negligencia crasa será desestimada con perjuicio si: (i) un demandado, como oficial, director, miembro de comité o profesional produce documentos que demuestren, con relación a cualquier acto u omisión objeto de la demanda, que dicho demandado recibió información sobre los hechos relevantes, participó en persona o por teléfono y deliberó de buena fe; (ii) o si las acciones u omisiones que son la base de la demanda, acusación o información no violan claramente un deber establecido del cual una persona razonable tendría notificación clara bajo las circunstancias particulares.”

Section 4.- The Spanish text of Section 106 of Act No. 21-2016, is hereby amended to read as follows:

“Artículo 106.-Contratación de Empleados del Gobierno y Profesionales; Exención de Otras Leyes

- a) ...
- b) El Gobernador, el Departamento de Hacienda, AFI, cualquier subsidiaria de cualquier Banco y/o la Autoridad podrá contratar con, retener a, u honrar obligaciones bajo y/o asumir contratos del Banco con consultores y empleados esenciales, incluyendo asesores legales y financieros, aunque los salarios y los honorarios hayan sido incurridos antes de la fecha de dicha asunción, para asesorar al Gobernador, al Banco o a cualquier entidad gubernamental en asuntos relacionados con la reestructuración o el ajuste de cualquier obligación cubierta, implantar planes de contingencia para las obligaciones cubiertas o para la administración de los asuntos fiscales del Estado Libre Asociado y de cualquier entidad gubernamental, o cualquier otro tema relacionado con las funciones y operaciones realizadas o llevadas a cabo por el Banco bajo la Ley Núm. 17 de 23 de septiembre de 1948, supra, o la Ley Núm. 272 de 15 de mayo de 1945, según enmendada. El Gobernador, el Departamento de Hacienda, AFI, cualquier subsidiaria del Banco y/o la Autoridad, según sea aplicable, deberá someter a la Oficina de Gerencia y Presupuesto un estimado del total de costos y gastos relacionados con los contratos y obligaciones que incurrirá o asumirá de acuerdo con esta Sección para el remanente del año fiscal 2016. El Secretario de Hacienda y el Director de la Oficina de Gerencia y Presupuesto están ordenados a identificar, del Año Fiscal 2016, los fondos necesarios para cubrir dichos gastos y/o para transferir a AFI, cualquier subsidiaria del Banco y/o la Autoridad suficientes fondos para cubrir dichos gastos. Comenzando con el Año Fiscal 2017, dichos gastos serán pagados mediante asignaciones hechas por la Asamblea Legislativa.”

Section 5.- The Spanish text of Section 201 of Act No. 21-2016, is hereby amended to read as follows:

“Artículo 201.-Declaración para Comenzar un Periodo de Emergencia y Moratoria para Cualquier Entidad Gubernamental; Facultades del Gobernador

- a) Consistente con el Artículo 108, la Legislatura por la presente instruye al Gobernador a dar prioridad al pago de servicios esenciales sobre las obligaciones cubiertas para proteger la salud, seguridad y el bienestar de los residentes del Estado Libre Asociado durante el periodo cubierto, según definido en esta Ley, y al Gobernador por la presente se le da el poder de, mediante Orden Ejecutiva, declarar un estado de emergencia para el Banco o una entidad gubernamental e identificar obligaciones enumeradas del Banco o cualquier entidad gubernamental y, si la Orden Ejecutiva así lo dispone, no se harán pagos de una obligación cubierta del Banco o dicha entidad gubernamental fuera de lo que disponen los Artículos 202 y 204 de esta Ley durante el periodo de emergencia para el Banco o dicha entidad gubernamental. Disponiéndose, sin embargo, que ninguna obligación de intereses u obligación de principal que constituya deuda pública se convertirá en una obligación cubierta por operación de este inciso más de cinco (5) días antes del 30 de junio de 2016. Salvo que se disponga lo contrario en esta Ley, cualquier Orden Ejecutiva emitida bajo este inciso podrá ser cancelada o modificada en cualquier momento por el Gobernador.
- (b) Durante el periodo de emergencia para cualquier entidad gubernamental:
- (i) ...
  - (iii) ningún contrato del cual dicha entidad gubernamental sea parte podrá ser terminado o modificado, y ningún derecho u obligación bajo dicho contrato podrá ser terminado o modificado únicamente por razón de que alguna disposición de dicho contrato está condicionada a—  
...
  - (iv) no obstante las disposiciones de los incisos (i), (ii) y (iii) anteriores, el Gobernador podrá tomar toda acción razonable y necesaria para preservar la capacidad del Estado Libre Asociado para continuar brindando servicios públicos esenciales y podrá tomar cualquier y toda acción razonable y necesaria para proteger la salud, la seguridad y el bienestar de los residentes del Estado Libre Asociado, incluyendo, sin limitación, expropiar

derechos de propiedad relacionados a una obligación cubierta de una manera permitida constitucionalmente de acuerdo a los poderes del Estado Libre Asociado, disponiéndose que, si alguna propiedad es expropiada según esta Ley, se podrá solicitar justa compensación o cualquier otro remedio en el Tribunal de Primera Instancia, Sala de San Juan, no obstante cualquier otra disposición o esta Sección de esta Ley. Con excepción de los Artículos 3 y 3(a) y el requisito del Artículo 5(a) de que se depositen fondos en el tribunal antes de adquirir título y posesión de la propiedad que se está expropiando, cuyas disposiciones no serán de aplicación para expropiaciones de derechos de propiedad relacionados a una obligación cubierta, pero continuarán siendo de aplicación para cualquier otra expropiación, las disposiciones de la Ley General de Expropiaciones de 12 de marzo de 1903, según enmendada, aplicarán a las expropiaciones bajo este Artículo.

- (c) ...
- (d) Si así lo ordena el Gobernador durante el periodo de emergencia creado por este Artículo, las siguientes obligaciones podrán ser suspendidas o modificadas, como sea aplicable, hasta el final del periodo cubierto, sin necesidad de otra legislación,
- ...
- ...
- (iii) cualquier obligación estatutaria u otra obligación de transferir dinero (o su equivalente), incluyendo asignaciones legislativas, a o por una entidad gubernamental sujeta a un periodo de emergencia, hasta una cantidad igual al total del servicios de deuda de dicha entidad gubernamental durante el año fiscal 2017 (o de tomar cualquier acción para cumplir con la misma);
- (iv) cualquier obligación estatutaria u otra obligación para compensar los ingresos utilizados para pagar o cubrir, directa o indirectamente, una obligación cubierta, que normalmente hubiesen sido utilizados o efectuados para pagar o garantizar cualquier obligación cubierta (o de tomar cualquier acción para cumplir con la misma); o

- (v) cualquier obligación estatutaria u otra obligación para garantizar el pago de una obligación cubierta como si esta Ley no estuviese promulgada (o de tomar cualquier acción para cumplir con la misma);

Disponiéndose que, en la medida que en una entidad gubernamental sujeta a un periodo de emergencia reciba, de una fuente que no sea el Departamento de Hacienda, ingresos u otros fondos cuya transferencia se haya suspendido o modificado bajo este Artículo 201(d), el Secretario de Hacienda podrá, sin necesidad de legislación adicional, requerir a la entidad que cobra o posee dichos fondos que transfiera dichos fondos al Departamento de Hacienda.

Disponiéndose además, que ninguna de estas disposiciones le es de aplicación a los municipios ni al Centro de Recaudación de Ingresos Municipales de Puerto Rico.

...”

Section 6.- The Spanish text of Section 202 of Act No. 21-2016, is hereby amended to read as follows:

“Artículo 202.-Condiciones del Periodo de Emergencia; Pago o Acumulación de Intereses

- a) Si lo dispone una Orden Ejecutiva, según enmendada de tiempo en tiempo, emitida de acuerdo al Artículo 201(a) de esta Ley, durante el periodo de emergencia declarado para cualquier entidad gubernamental bajo este Capítulo,—
- i. los tenedores de una obligación cubierta de dicha entidad gubernamental—
- A. que sea una obligación de principal u obligación de intereses de deuda pública, recibirán, como mínimo, el pago mínimo de deuda pública;
- B. que no sea deuda pública, pero que sea una obligación de intereses, tienen derecho a acumular intereses sobre la porción que no se haya pagado a una tasa igual a su tasa contractual de intereses, cuyos intereses devengados y no

pagados serán pagaderos al final del periodo cubierto, en la medida en que lo permitan las leyes aplicables; y

C. ...

ii. ...

- b) No obstante cualquier otra disposición de este Artículo, ningún tenedor de una obligación cubierta que no sea de deuda pública recibirá un pago proveniente de recursos disponibles, aunque de otra manera lo hubiese requerido este Artículo, si cualquier parte de la obligación que es de deuda pública permanece pendiente y sin pagar.
- c) A menos que una Orden Ejecutiva, según enmendada de tiempo en tiempo, emitida de acuerdo al Artículo 201(a) de esta Ley disponga lo contrario, o a menos que de otra manera se pague antes del final del periodo cubierto, cualquier pago respecto a cualquier obligación cubierta de cualquier entidad gubernamental que venza antes o durante el periodo de emergencia para dicha entidad gubernamental para la cual se haya declarado un periodo de emergencia, incluyendo un pago de intereses devengados, derivados o que surjan de, o estén relacionados con, el incumplimiento del pago de dicha obligación, (independientemente de si surge o resulta de una garantía, obligación de reembolso, indemnización u otra obligación o compromiso de cualquier entidad gubernamental), a menos que se disponga lo contrario en esta Ley, será pagadero en la medida provista en esta Ley en el último día del periodo cubierto, en la medida en que esté permitido bajo las leyes aplicables.
- d) Los requisitos para pagar intereses de acuerdo a los subincisos (a) y (c) de este Artículo no se aplicará al pago de ninguna porción de una obligación cubierta que no sea deuda pública y cuyo pago –
  - i. ...
  - ii. ...
- e) ...”

Section 7.-The Spanish Text of Section 203 of Act No. 21-2016, is hereby amended to read as follows:

“Artículo 203.-Medidas de Emergencia en el Banco; Depósitos; Retiros Permitidos y Prohibidos; Suspensión de Requisito de Depositar en el Banco

- (a) ...
- (b) Para propósitos de este Artículo, acciones “razonables y necesarias” podrán incluir, pero no limitarse a, lo siguiente-
  - i. ...
  - ii. ...
  - iii. suspendiendo-
    - A. la obligación del Banco de pagar bajo cualquier garantía;
    - B. ...
    - C. ...
  - ...
- (c) Si se impone cualquier restricción a los desembolsos por el Banco de acuerdo al subinciso (a) de este Artículo-
  - (i) ...
  - (ii) el Banco honrará las solicitudes de retiro o transferencia de cualquier depósito, incluyendo mediante cheque o de cualquier otra manera, hechas por una agencia, corporación pública o instrumentalidad del Estado Libre Asociado (con excepción de aquellas enumeradas en el subinciso (c)(iii) de este inciso) según lo autorice el Gobernador de tiempo en tiempo y al otorgar dicha autorización, el Gobernador deberá tomar en consideración los fondos disponibles y la necesidad de sufragar la prestación de servicios esenciales por dicho depositante según demostrado por una certificación conjunta de la Oficina de Gerencia y



Presupuesto y el Secretario de Hacienda que establezca que es necesario honrar dicha solicitud con respecto a dicho depósito, para garantizar la prestación de servicios esenciales específicamente identificados por una entidad gubernamental, disponiéndose que al certificar dicha petición de retiro, la Oficina de Gerencia y Presupuesto y el Secretario de Hacienda podrá disminuir la cantidad de cualquier solicitud a una cantidad considerada necesaria para sufragar los servicios esenciales;

(iii) Sujeto a la disponibilidad de fondos y la cantidad agregada de desembolsos establecida por el Gobernador, el Banco honrará cualquier solicitud de retiro o transferencia de depósitos o cualquier solicitud de honrar un cheque de un municipio, la Rama Judicial, la UPR, la Asamblea Legislativa o sus dependencias, la Oficina del Contralor, la Oficina del Contralor Electoral, la Comisión Estatal de Elecciones, la Oficina de Ética Gubernamental, la Oficina del Fiscal Especial Independiente; disponiéndose, sin embargo, que un oficial autorizado de dicho municipio o entidad enumerada deberá certificar y someter documentación que pruebe que dichos fondos se utilizarán para el pago de servicios esenciales.

(d) ...

(e) Salvo lo dispuesto en el inciso (f) de este Artículo, en la medida en que la obligación hacia un acreedor esté garantizada por un derecho sobre alguna propiedad, o en la medida en que dicho acreedor tenga derecho a compensar su deuda bajo otra ley no relacionada a insolvencia de imponérsele cualquier restricción a los desembolsos del Banco conforme a este Artículo, cualquier cantidad desembolsada a un acreedor luego de que se imponga dicha restricción, deberá ser restada de la cantidad de cualquier distribución que dicho acreedor pudiera recibir a partir del primer día de dicha restricción, si el Banco se liquida posteriormente o si se coloca en sindicatura. Asimismo, salvo lo dispuesto en el inciso (l) de este Artículo, que regula el uso del fondo de redención municipal creado en virtud de la Ley 64-1996 (excluyendo el exceso de los fondos allí depositados), si cualquier entidad gubernamental, asume, libera o paga cualquier obligación del Banco antes de ser liquidado o colocarse en sindicatura, dicha entidad gubernamental se subrogará en el sitio del acreedor de dicha obligación

del Banco y tendrá una reclamación contra el patrimonio del Banco en el mismo rango de preferencia asignado a la obligación por ley, equivalente a la cantidad asumida (disponiéndose que el Banco sea relevado de la obligación asumida), liberada o pagada a nombre del Banco y, de ser aplicable, esa reclamación deberá descontarse de cualquier cantidad adeudada de dicha entidad gubernamental al patrimonio en orden de vencimiento establecido.

...

- (h) Cualquier cheque emitido en violación de esta Ley, o de una Orden Ejecutiva emitida bajo esta Ley, será nulo y sin efecto, y cualquier persona que deliberadamente haga un cheque para retirar todo o una parte sustancial del balance de sus depósitos en violación a esta Sección será culpable de un delito grave que podrá ser sancionado con prisión de hasta un (1) año o con una multa no menor de veinticinco mil dólares (\$25,000).

- (i) ...

- (j) ...”

Section 8.- The Spanish text of Section 204 of Act No. 21-2016, is hereby amended to read as follows:

“Artículo 204.-Colateral, Gravámenes, y Prioridades Preservadas; No Menoscabo; Remedios

- (a) Si una obligación cubierta que venció o hubiese vencido antes o durante el periodo de emergencia vence al final del periodo cubierto como resultado de esta Ley, y salvo que ocurra una expropiación de acuerdo con esta Ley, nada en esta Ley se interpretará como que limita los derechos de un tenedor a la colateral, garantía o gravamen que respalde dicha obligación, y nada en esta Ley autoriza a cualquier entidad gubernamental a menoscabar obligación alguna tras la objeción de un acreedor.
- (b) ...
- (c) ...

- (d) Sin limitar el inciso (c) de este Artículo, la protección adecuada para el interés de una persona en colateral en efectivo, incluyendo ingresos de la entidad gubernamental puede incluir una prenda de los ingresos futuros (neto de gastos ordinarios, operacionales u otros gastos incurridos por la entidad gubernamental bajo esta Ley) de dicha entidad gubernamental si—
- i. ordenar el cumplimiento del derecho de dicha persona en ese momento podría menoscabar sustancialmente la habilidad de dicha entidad gubernamental de descargar sus funciones públicas;
  - ii. no hay alternativa práctica disponible para cumplir con dicha función pública a la luz de la situación; y
  - iii. la generación de ingresos netos futuros para repagar las reclamaciones garantizadas de dicha persona depende del desempeño corriente y continuo de sus funciones públicas y los ingresos netos futuros mejorarán como resultado del uso corriente de colateral en efectivo o ingresos para evitar un menoscabo corriente de funciones públicas.
- (e) ...”

Section 9.- The Spanish text of Section 206 of Act No. 21-2016, is hereby amended to read as follows:

“Artículo 206.-Emisión de Deuda por una Entidad Gubernamental

Independientemente de si se ha declarado un periodo de emergencia o no, nada de lo contenido en esta Ley se interpretará como que prohíbe o impide que una entidad gubernamental emita instrumentos de deuda u otra evidencia de endeudamiento a los acreedores de obligaciones cubiertas que consientan a ello, en pago, renovación o refinanciamiento de o a cambio de la obligación cubierta de dicho acreedor bajo términos que de otra manera estuviesen en cumplimiento con esta Ley o cualquier ley aplicable.”

Section 10.- The Spanish text of Chapter 6 of Act No. 21-2016 is hereby eliminated and substituted in its entirety for the following:

## “CAPÍTULO 6. LA AUTORIDAD DE ASESORÍA FINANCIERA Y AGENCIA FISCAL DE PUERTO RICO

### Artículo 601.-Establecimiento

Por la presente se crea la Autoridad de Asesoría Financiera y Agencia Fiscal de Puerto Rico, que será una corporación pública e instrumentalidad del Gobierno, con existencia legal, fiscal y autonomía administrativa separada e independiente del Estado Libre Asociado.

### Artículo 602.-Propósitos, Facultades y Poderes de la Autoridad

- (a) La Autoridad es creada con el propósito de que actúe como agente fiscal, asesor financiero y agente informativo del Estado Libre Asociado y sus corporaciones públicas, instrumentalidades, comisiones, autoridades municipales y subdivisiones políticas y para asistir tales entidades en confrontar la grave crisis fiscal y emergencia económica por la que atraviesa Puerto Rico.
- (b) Todas las funciones de agente fiscal, asesor financiero y agente informativo del BGF serán automáticamente transferidas a la Autoridad, incluyendo todos aquellos poderes y responsabilidades bajo la Ley Núm. 272 de 15 de mayo de 1945, según enmendada. La Autoridad deberá supervisar todos los asuntos relacionados con la reestructuración o ajuste de cualquier obligación, o planes de contingencia para cualquier obligación del Estado Libre Asociado o cualquiera de sus instrumentalidades. Asimismo, la Autoridad asumirá, y se convertirá en parte en cualquier y todos los contratos entre el BGF y cualquier asesor, incluyendo los asesores legales y financieros, aunque los salarios y los honorarios hayan sido incurridos antes de la fecha de dicha asunción, relacionados con la reestructuración o ajuste de las obligaciones del Estado Libre Asociado, sus instrumentalidades y municipios. Cualquier referencia en alguna ley del Estado Libre Asociado aprobada previo a la efectividad de esta Ley al (i) BGF, en su carácter de agente fiscal, asesor financiero o agente informativo del Estado Libre Asociado y sus instrumentalidades, o en relación con cualquier operación que no sea una operación bancaria, incluyendo las funciones asignadas al BGF bajo la Ley 29-2009,

según enmendada y la Ley Núm. 64 de 3 de julio de 1996, según enmendada, se entenderá que se refiere y aplica a la Autoridad, y (ii) Presidente del BGF, que se refiera a funciones, responsabilidades o poderes de éste relacionados a las funciones de agente fiscal, asesor financiero o agente informativo del Estado Libre Asociado y sus instrumentalidades y municipios o a cualquier operación del BGF que no sea una operación bancaria, incluyendo las funciones asignadas al BGF bajo la Ley 29-2009, según enmendada, se entenderá que se refiere al Director Ejecutivo de la Autoridad; disponiéndose, que, (a) en todo caso que alguna disposición de ley del Estado Libre Asociado provea que el Presidente del BGF será miembro de una junta de directores de una corporación o instrumentalidad pública, el Gobernador tendrá discreción para nombrar al Presidente del BGF o al Director Ejecutivo de la Autoridad, para ocupar dicha posición y (b) si surgiere alguna duda sobre si alguna disposición en una ley se refiere al BGF, en su carácter de agente fiscal, asesor financiero y agente informativo del Estado Libre Asociado y sus instrumentalidades y municipios o a cualquier operación del BGF que no sea una operación bancaria, se podrá consultar al Secretario de Justicia del Estado Libre Asociado sobre dicho asunto y se podrá descansar en cualquier interpretación que haga éste para propósitos de la interpretación de este inciso. Todo reglamento adoptado por el BGF previo a esta Ley en el ejercicio de sus funciones como agente fiscal, asesor financiero o agente informativo continuará en vigor luego de la aprobación de esta Ley hasta que estos sean enmendados o modificados por la Autoridad y cualquier referencia en esos reglamentos al BGF relacionada a las funciones de BGF como agente fiscal, asesor financiero o agente informativo del Estado Libre Asociado y sus instrumentalidades se entenderá que es una referencia a la Autoridad.

- (c) Con el fin de lograr estos propósitos, se le confiere a la Autoridad, y ésta tendrá y podrá ejercer, todos los derechos y poderes que sean necesarios o convenientes para llevar a cabo dichos propósitos, incluyendo, pero sin limitación, los siguientes—

- i. adoptar, cambiar y usar un sello corporativo que será reconocido por los tribunales;
- ii. formular, adoptar, enmendar y derogar estatutos para la administración de sus asuntos corporativos y aquellas normas, reglas y reglamentos que fueren necesarios o pertinentes para ejercitar y desempeñar sus funciones, poderes y deberes;
- iii. tener dominio completo sobre todas sus propiedades;
- iv. determinar el carácter y la necesidad de todos sus gastos, y el modo cómo los mismos deberán incurrirse, autorizarse y pagarse, sin tomar en consideración cualquier disposición de ley que regule los gastos de fondos públicos y tal determinación será final y definitiva para con todos los funcionarios del Estado Libre Asociado, pero deberá adoptar reglas para el uso y desembolso de sus fondos y estará sujeta a la intervención de la Oficina del Contralor de Puerto Rico;
- v. demandar y ser demandada bajo su propio nombre, querellarse y defenderse en todos los tribunales de justicia y cuerpos administrativos y participar en procedimientos de arbitraje comercial;
- vi. negociar y otorgar, con cualquier persona, incluyendo cualquier agencia gubernamental, federal o estatal, todo tipo de contrato, incluyendo todos aquellos instrumentos y acuerdos necesarios o convenientes para ejercer los poderes y funciones conferidos a la Autoridad por esta Ley;
- vii. adquirir cualquier propiedad mediante cualquier forma legal;
- viii. nombrar y destituir aquellos funcionarios, agentes, o empleados y conferirles aquellas facultades, imponerles aquellos deberes y fijarles, cambiarles y pagarles aquella compensación que la Autoridad determine;

- ix. aceptar donaciones de cualquier persona, y utilizar el producto de cualesquiera de dichas donaciones para cualquier fin corporativo;
- x. procurar seguros contra pérdidas en las cantidades y con los aseguradores que considere deseable, cuyo seguro podría incluir, sin que se entienda como una limitación, seguro contra responsabilidad civil de directores, oficiales, agentes y empleados;
- xi. asumir cualquier y todo contrato del BGF o su sucesor y cualquier responsabilidad relacionada a dichos contratos;
- xii. facultad de cobrar y recolectar cargos relacionados a su función como agente fiscal;
- xiii. ejercer todos aquellos otros poderes corporativos no incompatibles con los aquí expresados que por las leyes de Puerto Rico se confieren a las corporaciones privadas, y ejercer todos esos poderes, dentro y fuera de Puerto Rico, en la misma extensión que lo haría o podría hacerlo una persona natural, disponiéndose, que la Autoridad no tendrá autoridad legal para emitir bonos, notas u otra evidencia de deuda; y
- xiv. realizar todos los actos o medidas necesarias o convenientes para llevar a cabo los poderes que se le confieren por esta Ley o por cualquier otra ley de la Asamblea Legislativa de Puerto Rico o del Congreso de los Estados Unidos.

#### Artículo 603.-Junta de Directores

- (a) Inicialmente, la Autoridad será dirigida por una junta de directores integrada por el Director Ejecutivo de la Autoridad, quien será su único miembro. A partir del 1ero de enero de 2017, la Autoridad podrá ser dirigida por una junta de directores compuesta de uno, tres o cinco miembros, según determine el Gobernador, cuyos miembros serán nombrados por el Gobernador, con el consejo y consentimiento del

Senado de Puerto Rico, y no podrán haber ocupado el puesto de director del BGF durante un periodo de diez (10) años previo a ser designados directores de la Autoridad. Los miembros de la Junta servirán a voluntad del Gobernador y podrán ser removidos o reemplazados por el Gobernador en cualquier momento, con o sin causa.

- (b) La Junta seleccionará entre sus miembros a un presidente y un vicepresidente, que sustituirá al presidente en su ausencia, así como a un secretario; disponiéndose, que, si la Junta está compuesta de un solo miembro, dicho miembro fungirá como presidente y secretario de la Junta.
- (c) La Junta también podrá designar comités para atender cualquier asunto que la Junta pueda atender, siempre y cuando la mayoría de los miembros designados de dichos comités sean independientes.
- (d) Salvo que el reglamento de la Autoridad lo prohíba o lo restrinja, cualquier acción necesaria o permitida en cualquier reunión de la Junta o cualquier comité de la Junta, será autorizada sin que medie una reunión, siempre y cuando todos los miembros de la Junta o comité de la Junta, según sea el caso, den su consentimiento escrito a dicha acción. En tal caso, el documento escrito constará en las actas de la Junta o comité de la Junta, según sea el caso. Salvo que el reglamento de la Autoridad provea otra cosa, los miembros de la Junta o de cualquier comité de la Junta podrán participar en cualquier reunión de la Junta o de cualquier comité de ésta, respectivamente, mediante conferencia telefónica, u otro medio de comunicación, a través del cual todas las personas participantes en la reunión puedan escucharse simultáneamente. La participación de cualquier miembro de la Junta o cualquier comité de ésta en la forma antes descrita constituirá asistencia a dicha reunión.
- (e) Los miembros de la Junta no recibirán compensación por sus servicios como miembros de la Junta, pero tendrán derecho a que se les reembolsen los gastos de viaje necesariamente incurridos para el desempeño de sus funciones oficiales de acuerdo a los reglamentos aplicables del Departamento de Hacienda.
- (f) La Junta tendrá, sin que se entienda como una limitación, los siguientes deberes y facultades—



- i. establecer la política general de la Autoridad para cumplir con los objetivos de esta Ley;
- ii. autorizar el plan de trabajo y el presupuesto anual de la Autoridad;
- iii. adoptar y aprobar reglas y reglamentos que rijan su funcionamiento interno, así como aquéllos que sean necesarios para desempeñar las facultades y poderes que le han sido conferidas bajo esta Ley;
- iv. sujeto al Artículo 604 de esta Ley, establecer los deberes y poderes del Director Ejecutivo de acuerdo a las disposiciones de esta Ley y establecer su compensación;
- v. requerir de cualquier funcionario o empleado de la Autoridad los informes y datos estadísticos que entienda necesarios;
- vi. en la medida que la Junta de Supervisión Fiscal y Recuperación Económica de Puerto Rico no se haya constituido, para validar o seleccionar el asesor independiente que validará las proyecciones de ingresos del Estado Libre Asociado para cualquier año fiscal antes de que dichas proyecciones sean sometidas a la Asamblea Legislativa como parte de presupuesto del Estado Libre Asociado de acuerdo al Artículo 4(a) de la Ley Núm. 147 de 18 de junio de 1980, según enmendada;
- vii. emitir citaciones requiriendo la comparecencia y el testimonio de testigos y la producción de cualquier evidencia para recopilar información relacionada a un asunto que se encuentre bajo su jurisdicción. Si cualquier persona se rehusare a cumplir con un requerimiento hecho por la Autoridad, la Autoridad podrá solicitar una orden judicial ante el Tribunal de Primera Instancia, Sala de San Juan, para requerir a esa persona a comparecer ante la Autoridad para testificar, producir evidencia, o ambos, con relación al asunto bajo su consideración, cuyos requerimientos deberán ser notificados de la misma manera en la que éstos se notificarían bajo las reglas de procedimiento civil aplicables;

- viii. promulgar normas para proteger la confidencialidad de la información y los documentos que se le entreguen de acuerdo con las leyes y la jurisprudencia vigente sobre la materia en el Estado Libre Asociado, cuyo acto de proveer información o documentos a solicitud de la Autoridad no se interpretará como una renuncia a una reclamación de confidencialidad, de cualquier persona natural o jurídica, con relación a la información o el documento entregado;
- ix. delegar en cualquier comité de la Junta o en el Director Ejecutivo cualesquiera de los poderes y facultades que tiene la Junta bajo esta Ley; y
- x. tomar todas aquellas acciones que considere conveniente o necesarias para llevar a cabo los propósitos de la Autoridad según las disposiciones de esta Ley.

#### Artículo 604.-Director Ejecutivo

- (a) La Autoridad funcionará bajo la dirección de un Director Ejecutivo, quien será nombrado por el Gobernador, disponiéndose, que, si la Junta está compuesta por un solo miembro, dicho miembro fungirá también como Director Ejecutivo de la Autoridad. Durante cualquier periodo en que el Director Ejecutivo sea el único miembro de la Junta de la Autoridad, el Gobernador establecerá los deberes y poderes del Director Ejecutivo de acuerdo con las disposiciones de esta Ley y determinará su compensación.
- (b) Las funciones del Director Ejecutivo incluirán, sin que constituya una limitación, las siguientes:
  - i. ser el principal oficial ejecutivo de la Autoridad;
  - ii. preparar y presentar a la Junta el plan de trabajo y el presupuesto anual de la Autoridad;
  - iii. autorizar y supervisar cualquier contrato que sea necesario para el funcionamiento de la Autoridad sujeto a las normas que establezca la Junta;

- iv. establecer, organizar, dirigir y supervisar la estructura administrativa de la Autoridad;
- v. contratar personal y profesionales, incluyendo asesores legales, consultores financieros, y economistas, bajo términos razonables y según determine la Autoridad, para ayudar al Director Ejecutivo en el ejercicio de las funciones de la Autoridad;
- vi. establecer los niveles de funcionamiento de las operaciones de la Autoridad, incluyendo el poder de reclutar y contratar a cualquiera de los funcionarios y empleados bajo su supervisión, sujeto a las normas que establezca la Junta; y
- vii. desempeñar todas aquellas otras funciones que le sean asignadas por la Junta.

#### Artículo 605.- Funcionarios y Empleados

- (a) El personal de la Autoridad quedará excluido de la Ley 184-2004, según enmendada, conocida como “Ley para la Administración de los Recursos Humanos en el Servicio Público del Estado Libre Asociado de Puerto Rico”. Los nombramientos, despidos, ascensos, traslados, ceses, reposiciones, suspensiones, licencias y cambios de categoría, remuneración o título de los funcionarios y empleados de la Autoridad se harán y permitirán como dispongan las normas y reglamentos que prescriba la Junta, las que deberán ser consistentes con los principios de mérito establecidos en la Ley de Personal del Servicio Público de Puerto Rico.
- (b) El Director Ejecutivo y los funcionarios y empleados de la Autoridad tendrán derecho al reembolso de los gastos necesarios de viaje, o a las dietas correspondientes, que sean autorizados o aprobados de acuerdo con los reglamentos adoptados por la Junta para la Autoridad.

#### Artículo 606.- Inmunidad

En ausencia de prueba clara y convincente de negligencia crasa que conlleve una indiferencia temeraria hacia sus deberes o la omisión de llevarlos a cabo, los miembros de la Junta, oficiales y empleados de la Autoridad no tendrán responsabilidad personal civil hacia ninguna persona y serán indemnizados por la

Autoridad y exonerados de responsabilidad civil por acciones u omisiones de buena fe, en su capacidad y dentro de su autoridad. Cualquier acción civil presentada ante un tribunal en la que se alegue la existencia de negligencia crasa deberá ser desestimada con perjuicio si el demandado produce documentos que demuestren que recibió información sobre los hechos relevantes, participó en persona o por teléfono y deliberó de buena fe o recibió y confió en el asesoramiento de expertos respecto a cualquier acción u omisión que sea base para la demanda.

#### Artículo 607.- Colaboración entre Entidades Gubernamentales

La Autoridad podrá solicitar a cualquiera de las siguientes entidades, o a cualquier sucesor del mismo, apoyo administrativo y tales servicios estadísticos y profesionales razonablemente necesarios para que la Autoridad pueda llevar a cabo sus responsabilidades bajo esta Ley: el BGF, el Departamento de Hacienda, la Oficina de Gerencia y Presupuesto, el Departamento de Desarrollo Económico y Comercio de Puerto Rico, el Instituto de Estadísticas y cualquier otra instrumentalidad del Estado Libre Asociado. En la medida de lo posible, la Autoridad reembolsará a estas entidades para tales servicios.

#### Artículo 608.- Exención de Otras Leyes

Para preservar su independencia administrativa, la cual es indispensable para llevar a cabo las funciones que por la presente se le encomiendan, la Autoridad estará excluida de la aplicación de las disposiciones y las leyes que se enumeran en el Artículo 106 a) i. al vii de esta Ley y de la aplicación de las disposiciones y las leyes de las cuales está exento actualmente el BGF.

#### Artículo 609.- Empleados del Banco

En la medida en que la Autoridad determine, a su discreción, asumir la totalidad o parte de los empleados permanentes, temporeros y/o no-unionados del BGF, dichos empleados pasarán a ser empleados de la Autoridad. Esta transferencia de empleados se efectuará mientras se honran los términos y condiciones de empleo efectivos a la fecha de la transferencia a la Autoridad, incluyendo los derechos, privilegios, obligaciones y antigüedad, adquiridos bajo las leyes aplicables y los reglamentos vigentes de personal, sujeto a las modificaciones provistas por la Ley 66-2014 mientras la misma continúe vigente. Ninguna de las disposiciones de este Capítulo afectará el derecho constitucional de negociación colectiva que tienen los empleados del BGF, ni los derechos, beneficios y privilegios adquiridos por virtud de cualquier convenio colectivo. Los derechos con relación a cualquier sistema de

pensión o retiro a las que pueden estar afiliados a, o miembros de, la fecha de vigencia de esta Ley también están garantizados. La Autoridad estará obligada a satisfacer los salarios, compensación, comisión, incluyendo pagos relacionados a vacaciones, licencias y días de enfermedad o cualquier otro beneficio de empleo adquirido antes de la transferencia a la Autoridad, conforme las políticas aplicables del BGF o cualquier ley aplicable.

**Artículo 610.- Continuación de la Efectividad de Aprobaciones Previas del BGF Con Relación a Bonos u Obligaciones Similares o Transacciones**

Cualquier resolución adoptada por el BGF previo a la fecha de la creación de la Autoridad y que apruebe los términos o la emisión de bonos u otra obligación similar o transacción del Estado Libre Asociado o cualquier “Unidad” del Gobierno del Estado Libre Asociado (según dicho término está definido en la Ley 272 de 15 de mayo de 1945, según enmendada) y de cualquier municipio, será válida y permanecerá en pleno vigor y efecto a pesar de la aprobación de esta Ley o la asunción por la Autoridad de aquellos poderes y responsabilidades que se le confieren a la Autoridad por virtud de esta Ley, y no se requerirá que la Autoridad adopte una resolución aprobando nuevamente los términos o la emisión de dichos bonos u obligaciones similares o transacción, aunque dichos bonos u obligaciones similares se emitan, o dicha transacción se complete, después de la fecha de la creación de la Autoridad.

**Artículo 611.- Términos de la Existencia de la Autoridad**

La Autoridad existirá en perpetuidad, a menos que se termine mediante legislación.”

Section 11.- The English text of Section 103 of Act No. 21-2016, is hereby amended to read as follows:

**“SECTION 103.-DEFINITION**

The following words and terms, when used in Chapters 1, 2, 6, and 7 of this Act shall have the meaning stated below:

(a) ...

...

- (l) “Covered obligation” shall mean (1) any interest obligation, principal obligation or enumerated obligation of a government entity that is due or becomes due during the emergency period in respect of such government entity, (2) any obligation arising or resulting from, or related to, the guarantee by such government entity of any obligation of another entity that is due or becomes due during the emergency period, and (3) if provided for in an order issued pursuant under Section 201 (d) of this Act, the transfer of, or obligation to transfer, funds required to be made in advance of, or on the due date of, any obligation identified in the preceding clauses (1) and (2), if, and in each case, such government entity is declared to be in a state of emergency by an executive order of the Governor as contemplated in Section 201(a) of this Act, as may be amended from time to time, but shall not include—
- (i) ...
  - (ii) ...
  - (iii) ...
  - (iv) ...
  - (v) any debt issued by a government entity after the enactment of this Act provided that the Governor certifies at the time of issuance that such debt will be irrevocably excluded from the definition of “covered obligation” under this Section for the purposes of this Act.
- (m) ...
- (n) “Debt instrument” shall include any document or instrument for, used in connection with, or related to:
- i. ...
  - ...
  - vii. ...

Provided that “debt instrument” shall not include any contract for the provision of goods or services, nor shall it include any clearing services agreement or other agreement pursuant to which a financial institution provides services to the Bank or any other government entity.

...

(q) “Emergency period”, in respect of any government entity, shall mean the period beginning on the date designated by the Governor in an executive order, as may be amended from time to time, issued pursuant to Section 201(a) of this Act, with respect to such government entity and ending on the date designated by the Governor in an executive order, which shall be no later than the last day of the covered period.

(r) “Enumerated obligation” shall mean any obligation specifically listed or identified by category in an executive order, as may be amended from time to time, issued pursuant to Section 201(a) of this Act, which obligation (whether contingent or non-contingent, due or not due) may arise from any contract or agreement, including any financial instrument, debt instrument or unexpired lease, any obligation to pay the principal of, premium of, if any, penalties, reimbursement or indemnification amounts, fees, expenses, or other amounts relating to any indebtedness, any other liability, contingent or otherwise, and any other agreement on instrument provided for amounts or benefits payable by a government entity to any person, provided that an “enumerated obligation” shall not include any obligation that arises under a contract for the provision of goods or services to a government entity, nor shall it include any obligation arising under a clearing services agreement or other agreement pursuant to which a financial institution provides services to the Bank or any other government entity.

(s) ...

(t) “Government entity” shall mean any of the following—

- i. AFICA, AMA, each Bank and any subsidiary thereof, CCDA, COFINA, the Commonwealth, ERS, HFA, HTA, PBA, PFC,

PRASA, PREPA, PRIDCO, PRIFA, the Puerto Rico Ports Authority, and UPR; and

ii. ...

Notwithstanding any provision of this Act, any government entity party to an Agreement with Creditors shall only be considered a “government entity” prior to the consummation of the financial restructuring contemplated by an Agreement with Creditors (for example, without it being construed as a limitation, the initial issuance of any securitization bonds in exchange for outstanding bonds issued by such government entity in accordance with an Agreement with Creditors), and, in such case, only in the event that (1) the Agreement with Creditors is terminated or (2) any holder or beneficial owner of a debt instrument issued by such government entity has commenced an action to enforce any right or remedy against said government entity under such debt instrument. For purposes of this definition, “Agreement with Creditors” shall mean an agreement executed among a government entity and certain creditors of such government entity, including a consensual restructuring support agreement relating to the restructuring of its debt, as it may be amended, supplemented or reinstated from time to time, regardless of whether it is securitized or not.”

(u) ...

...

(y) “Minimum public debt payment” shall mean, with respect to a covered obligation that is public debt and is also a principal obligation or an interest obligation—

i. an amount determined by the Governor that is consistent with the Constitution of the Commonwealth, after consultation with the Secretary of the Treasury, which amount may be calculated as the difference between the amount of available resources projected for the applicable emergency period and the projected expenses for essential public services during such period, applied pro rata to all holders of covered obligations that are interest obligations that constitute public debt that are due and payable (or projected to become due and payable) during the applicable



emergency period (excluding any deferred or accrued amounts that will be paid on the last day of such emergency period as a result of this Act), and, if all interest obligations that constitute public debt are satisfied in full, any remaining available resources shall be applied pro rata to all holders of covered obligations that are principal obligations that constitute public debt and that are due and payable (or projected to become due and payable) during the applicable emergency period (excluding any deferred or accrued amounts that will be paid on the last day of such emergency period as a result of this Act), provided that the minimum public debt payment in this clause (i) need not be paid all at once if such amount exceeds the available resources of the Commonwealth that are available to make such payment, including those subject to an executive order or applicable law that diverts such available resources towards the payment of public debt; and

ii. ...

(z) ...”

Section 12.- The English text of Section 105 of Act No. 21-2016, is hereby amended to read as follows:

“SECTION 105. IMMUNITIES.

a) ...

b) No financial institution or agent thereof providing clearing services or other financial services to the Bank or any other government entity pursuant to any agreement with the Bank or such government entity shall have any liability, civil, criminal, or otherwise, for, and without further notice or order shall be exonerated from, actions taken or not taken in connection with such agreement, nor for any transfer or withdrawal of deposits or other funds made pursuant thereto if any such transfer or withdrawal is found by a court to be in violation of this Act, Act No. 17 of September 23, 1948, as amended, Act No. 22 of June 24, 1985, as amended, or Sections 1243, 1244 and 1249 of the Civil Code of Puerto Rico, any regulation or executive order issued hereunder or thereunder, or any other similar or analogous law or provision.

- c) Any financial institution in which a check issued by any government entity is deposited or which receives any other instruction from a government entity to transfer funds shall be entitled to honor such check or instruction in the ordinary course of its banking operations without inquiring whether the requirements of this Act or any executive order issued hereunder have been complied with. The Bank and the government entities shall be solely responsible and liable for compliance with any provision of this Act or any regulation or executive order issued hereunder that restricts the use of government funds or the issuance of checks or other instructions relating to government funds held by financial institutions.
- d) Any action brought for gross negligence shall be dismissed with prejudice if: (i) a defendant, as an official, officer, director, committee member, or professional produces documents showing in respect of whatever acts or omissions form the basis of the complaint, such defendant received or relied on the advice of experts or was advised of relevant facts, participated in person or by phone, and deliberated in good faith; or (ii) the acts or omissions that form the basis of the complaint, indictment, or information do not clearly violate an established duty of which a reasonable person would have clear notice under the particular circumstances.”

Section 13.- The English text of Section 106 of Act No. 21-2016, is hereby amended to read as follows:

**“SECTION 106. HIRING OF GOVERNMENT WORKERS AND PROFESSIONAL PERSONS; EXEMPTION FROM OTHER LAWS.**

- a) ...
- b) The Governor, the Department of the Treasury, PRIFA, any subsidiary of the Bank, and/or the Authority may employ, retain, or honor existing obligations under and /or assume existing contracts of the Bank of any government entity with consultants and essential employees, including legal and financial advisors, whether or not the salaries or fees were incurred prior to the date of such assumption, and may employ such consultants and essential employees to advise the Governor, the Bank or any government entity on matters related to restructuring or adjusting

any covered obligation, implementing liability management transactions for covered obligations, managing the fiscal affairs of the Commonwealth and any government entity, or any matters otherwise related to functions or operations performed or carried out by the Bank under Act No. 17 of September 23, 1948, as amended, or Act No. 272 of May 15, 1945, as amended. The Governor, the Department of the Treasury, PRIFA, any subsidiary of the Bank, and/or the Authority, as applicable, shall submit to the Office of Management and Budget an estimate of the total costs and expenses related to the contracts and obligations to be incurred or assumed pursuant to this Section for the remainder of this fiscal year 2016. The Secretary of the Treasury and the Director of the Office of Management and Budget are hereby directed to identify from the fiscal year 2016 budget the funds necessary to cover such expenses and/or to transfer to PRIFA, any subsidiary of the Bank, or the Authority sufficient funds to cover such expenses. Beginning in fiscal year 2017, such expenses shall be paid from appropriations made by the Legislative Assembly. The laws and provisions listed in items a) i. through vii. of this section shall not apply to the contracting or the assumption of obligations under this subsection.”

Section 14.- The English text of Section 201 of Act No. 21-2016, is hereby amended to read as follows:

**“SECTION 201.-DECLARATION COMMENCING EMERGENCY PERIOD AND MORATORIUM FOR ANY GOVERNMENT ENTITY; POWERS OF THE GOVERNOR**

- (a) Consistent with Section 108, the Legislature hereby directs the Governor to prioritize payment of essential services over covered obligations to promote the health, safety, and welfare of the residents of the Commonwealth during such covered period, as defined in this Act, and the Governor is hereby empowered, by executive order, to declare the Bank or any government entity to be in a state of emergency and identify in such order enumerated obligations of the Bank or any government entity, as applicable, and if the executive order so provides, no payment on a covered obligation of such Bank or government entity shall be made, other than as provided in Sections 202 or 204 of this Act, during the emergency period for such Bank or government entity, as applicable; provided, however, that no principal obligation or interest

obligation that constitutes public debt shall become a covered obligation by operation of this Section before five (5) days prior to June 30, 2016. Except as otherwise provided in this Act, any executive order issued under this Subsection may be terminated or modified at any time by the Governor.

(b) During the emergency period for any government entity:

(i) ...

(iv) notwithstanding the provisions of the preceding clauses (i), (ii) and (iii) above, the Governor may take any and all actions that are reasonable and necessary to preserve the Commonwealth's ability to continue providing essential public services and may take any and all actions reasonable and necessary to protect the health, safety and welfare of the residents of the Commonwealth, including, in each case without limitation, expropriating property or rights in property interests related to a covered obligation in a constitutionally permitted manner pursuant to the Commonwealth's power of eminent domain, provided, however, that if property is taken pursuant to this Act, just compensation or other relief may be sought in the Court of First Instance, San Juan Part notwithstanding any other provision or this Section of this Act. The provisions of the General Act of Expropriation of March 12, 1903, as amended, will apply to expropriations pursuant to this Section, other than Articles 3 and 3(a), and the requirement of Article 5(a) that funds be deposited in court prior to acquiring title and possession of the property being expropriated, which provisions shall not apply to expropriations of property rights pursuant to this Section, but shall continue to apply to any other expropriation.

(c) ...

If ordered by the Governor during the emergency period created by this section, the following obligations may be suspended or modified, if applicable, until the end of the covered period, without the need for further legislation,-

...

- iii. any statutory or other obligation to transfer money (or its equivalent), including appropriations, to or from any government entity subject to an emergency period, up to an amount equal to the aggregate debt service payable by such government entity during fiscal year 2017 (or take any action in furtherance thereof);
- iv. any statutory or other obligation to setoff revenues used to pay or cover, directly or indirectly, a covered obligation that would normally be used or effected to pay or secure any covered obligation (or take any action in furtherance thereof); and/or
- v. any statutory or other obligation to ensure payment of a covered obligation as if this Act were not enacted (or take any action in furtherance thereof);

Provided that, to the extent that a government entity subject to an emergency period receives, from a source other than the Department of Treasury, revenues or other monies whose transfer is suspended or modified pursuant to this Section 201(d), the Secretary of Treasury may, without the need for further legislation, require the entity that collects or holds such funds to transfer such funds to the Department of Treasury.

Provided further that any of these provisions shall not be applicable to the municipalities and the Municipal Revenue Collection of Puerto Rico.

...”

Section 15.- The English text of Section 202 of Act No. 21-2016, is hereby amended to read as follows:

“SECTION 202. CONDITIONS OF EMERGENCY PERIOD; PAYMENT OR ACCRUAL OF INTEREST

- a) If provided for in an executive order, as may be amended from time to time, issued pursuant to Section 201(a) of this Act, during the emergency period for any government entity created by this chapter,—

- i. holders of a covered obligation of such government entity—
  - A. that constitutes public debt and is a principal obligation or an interest obligation shall receive at least the minimum public debt payment;
  - B. ...
  - C. ...
- ii. ...
- b) ...
- c) ...
- d) The requirements to pay interest pursuant to Subsections (a) and (c) of this Section shall not apply to the payment of any portion of a covered obligation that is not public debt the payment of which is—
  - i. ...
  - ii. ...
- e) ...”.

Section 16.- The English text of Section 203 of Act No. 21-2016, is hereby amended to read as follows:

“SECTION 203.-EMERGENCY BANK MEASURES; DEPOSITS; PERMISSIBLE AND PROHIBITED WITHDRAWALS; SUSPENSION OF REQUIREMENTS TO DEPOSIT FUNDS IN THE BANK

- (a) ...
- (b) For the purposes of this Section, actions that are “reasonable and necessary” shall include, but are not limited to, the following—
  - i. ...

- ii. ...
  - iii. suspending—
    - A. the Bank’s obligation to pay under any guarantee;
    - B. ...
    - C. ...
  - iv. ...
  - v. ...
- (c) If any restriction is placed on disbursements by the Bank pursuant to Subsection (a) of this Section-
- (i) ...
  - (ii) the Bank shall honor requests to withdraw or transfer any deposit, including by check or other means, of an agency, public corporation, or instrumentality of the Commonwealth (other than those listed in Subsection (c)(iii) of this Subsection) as may be authorized by the Governor, from time to time, and in making any such authorization, the Governor shall consider the availability of funds and the need to fund the provision of essential services by such depositor, which must be demonstrated by a joint certification from the Office of Management and Budget and the Secretary of the Treasury that honoring such request, with respect to such deposit, is necessary to fund the provision of specifically identified essential services by a government entity, provided, further, that when certifying such withdrawal requests, the Office of Management and Budget and the Secretary of the Treasury may reduce the amount of any request to an amount deemed necessary to fund essential services;
  - (iii) subject to the availability of funds and the aggregate disbursements established by the Governor, the Bank shall honor

any request to withdraw or transfer any deposit held by, or request to honor any check written by, a municipality or any of the Judicial Branch, UPR, Legislative Branch, Office of the Comptroller, Office of the Electoral Comptroller, State Elections Commission, Government Ethics Office, Independent Prosecutors Panel, provided, however, that an authorized officer of such municipality or listed entity certifies along with supporting documentation that such funds will be used for the payment of essential services; and

- (iv) Any provision of any law that requires any entity, public or private, to deposit funds in the bank shall be suspended.
- (d) ...
- (e) Except as provided in Subsection (f) of this Section, to the extent that such creditor is secured by an interest in property, or to the extent that such creditor is entitled to setoff under otherwise applicable non-insolvency law if any restriction is placed on disbursements from the Bank pursuant to this Section, then any value disbursed to a creditor after such restriction is imposed shall be subtracted from the value of any distribution that such creditor is entitled to receive, as of the first date of the restriction, if the Bank is subsequently liquidated or placed into a receivership. Likewise, except as provided in Subsection (l) of this Section, which governs the use of the municipal redemption fund created pursuant to Act No. 64-1996 (other than with respect to surplus funds deposited therein), if any governmental entity assumes, discharges or otherwise satisfies any liability of the Bank prior to it being liquidated or placed into receivership, such governmental entity shall subrogate itself in place of the Bank's creditor and have claim against the estate of the same rank and preference assigned to such obligation by law, equal to the amount assumed (provided the Bank is released from the assumed obligation), discharged or paid on behalf of the Bank and, if applicable, such claim shall be subtracted from any amount owed by such governmental entity to the estate in direct order of maturity.
- (f) ...”



Section 17.- The English text of Section 103 of Act No. 21-2016, is hereby amended to read as follows:

“SECTION 204.-COLLATERAL, SECURITY INTERESTS, AND PRIORITIES PRESERVED; NON-IMPAIRMENT; REMEDIES

- (a) ...
- (b) ...
- (c) ...
- (d) Without limiting Subsection (c) of this Section, adequate protection of a person’s interest in cash collateral, including revenues, of the government entity, may take the form of a pledge to such person of future revenues (net of any current expenses, operational expenses or other expenses incurred under this Act) of such government entity if—
  - i. ...”

Section 18.- The English text of Chapter 6 of Act No. 21-2016 is hereby eliminated and substituted in its entirety for the following:

“CHAPTER 6.- THE PUERTO RICO FISCAL AGENCY AND FINANCIAL ADVISORY AUTHORITY

SECTION 601.- ESTABLISHMENT

There is hereby created the Puerto Rico Fiscal Agency and Financial Advisory Authority, which is established as an independent public corporation and governmental instrumentality with separate legal existence, fiscal and administrative autonomy, and independence from the Commonwealth.

SECTION 602.- PURPOSES, FACULTIES AND POWERS OF THE AUTHORITY

- (a) The Authority is created for the purpose of acting as fiscal agent, financial advisor and reporting agent of the Commonwealth and its public corporations, instrumentalities, commissions, authorities, municipalities and political subdivisions and to assist such entities in

confronting the grave fiscal and economic emergency that the Commonwealth is currently experiencing.

- (b) All fiscal agency, financial advisory, and reporting functions of GDB shall be transferred to the Authority, including all powers and responsibilities under the Act No. 272 of May 15, 1945, as amended. The Authority shall oversee all matters related to the restructuring or adjustment of any obligation, or otherwise coordinate and implement liability management transactions for any obligation of the Commonwealth and any of its instrumentalities. The Authority shall also assume, and become a party to, any and all contracts between GDB and any advisor, including legal and financial advisors, whether or not the salaries or fees were incurred prior to the date of such assumption, related to the restructuring or adjustment of obligations of the Commonwealth or any of its instrumentalities. Any reference in any Commonwealth law enacted prior to the effective date of this Act to (i) GDB, in its role as fiscal agent, financial advisor or reporting agent of the Commonwealth and its instrumentalities, or in relation to any operation including functions assigned to GDB pursuant to Act 29, 2009, as amended, that is not a banking operation, shall be understood to refer and apply to the Authority and (ii) the President of GDB, in connection with his functions, responsibilities and powers related to GDB's functions as fiscal agent, financial advisor or reporting agent of the Commonwealth and its instrumentalities, or to any operation of GDB that is not a banking operation, including functions assigned to GDB pursuant to ACT 29, 2009, as amended, shall be understood to refer and apply to the Executive Director of the Authority provided, that, (a) whenever any provision of any Commonwealth law states that the President of GDB shall serve as member of a board of directors of a public corporation or instrumentality, the Governor shall have discretion to appoint the President of GDB or the Executive Director of the Authority, to occupy such position, and (b) should there be any doubt as to whether any provision in any law refers to GDB, in its role as fiscal agent, financial advisor or reporting agent of the Commonwealth and its instrumentalities, or in relation to any operation that is not a banking operation, the opinion of the Secretary of Justice of the Commonwealth may be requested and his interpretation thereof may be relied on for purposes of the interpretation of this provision.

- (c) In order to achieve its purposes, the Authority is granted, and will have and may exercise, all the rights and powers as are necessary or convenient to carry out such purposes, including, but without limitation, the following—
- i. to adopt, alter and use a corporate seal which shall be recognized by the courts;
  - ii. to formulate, adopt, amend and revoke by-laws for the administration of its corporate affairs and those standards, rules and regulations that may be necessary or pertinent to exercise and perform its functions, powers and duties;
  - iii. to have complete dominion over all its properties;
  - iv. to determine the nature of and need for all its expenses, and the manner in which the same shall be incurred, authorized and paid without taking into consideration any legal provisions that regulate the expenditure of public funds, and such determination shall be final and binding for all the officials of the Commonwealth, but it must adopt rules for the use and disbursement of its funds and it shall be subject to audits conducted by the Office of the Comptroller of Puerto Rico;
  - v. to sue and be sued under its own name, to file complaints and defend itself in all courts of justice and administrative bodies and to participate in commercial arbitration proceedings;
  - vi. to negotiate and execute with any person, including any federal or state government agency, any type of contract, including all those instruments and agreements necessary or convenient to exercise the powers and functions conferred to the Authority by this Act;
  - vii. to acquire any property through any legal means;
  - viii. to appoint and remove officers, agents and employees and to grant them the powers, impose on them the duties and fix, change and pay them the compensation determined by the Authority;

- ix. to accept donations from any person, and to use the proceeds of any such donations for any corporate purpose;
- x. to procure insurance against losses in the amounts and with the insurers it deems desirable, which insurance may include, without it being construed as a limitation, civil liability insurance for directors, officers, agents and employees;
- xi. to assume any and all contracts and related liabilities of GDB, or its successor;
- xii. the power to charge and collect fiscal agency fees;
- xiii. to exercise such other corporate powers, not inconsistent herewith, as are conferred upon private corporations by the laws of Puerto Rico and to exercise all its powers within and without Puerto Rico to the same extent as natural persons might or could do; and
- xiv. to take any action or measure necessary or convenient to enforce the powers conferred by this Act or by any other law of the Legislative Assembly of Puerto Rico or of the United States Congress.

#### SECTION 603.- BOARD OF DIRECTORS

- (a) Initially, the Authority shall be governed by a board of directors whose sole member shall be the Executive Director of the Authority. Beginning on January 1, 2017, the Authority may be governed by a board of directors composed of one, three or five members, as determined by the Governor, which members shall be appointed by the Governor, with advice and consent of the Senate of Puerto Rico and shall not have served as directors of GDB during the ten (10) year period prior to their appointment as directors of the Authority. The members of the Board shall serve at the pleasure of the Governor and may be removed or replaced by the Governor at any time, with or without cause.
- (b) The Board shall select from among its members a president and a vice president, who shall substitute the president in his absence, as well as a

secretary, provided, that, if the Board is composed of only one member, said member shall serve as both president and secretary of the Board.

- (c) The Board may also appoint committees to address any matter that the Board may address.
- (d) Unless the Authority's regulations so prohibit or restrict, any action necessary or allowed during any meeting of the Board or any Board committee shall be authorized without the need for a meeting, provided that all the members of the Board or Board committee, as the case may be, give their written consent to such action. In such event, the written document shall be included in the minutes of the Board or Board committee, as the case may be. Unless the Authority's regulations provide otherwise, the members of the Board or of any Board committee may participate in any meeting of the Board or any Board committee, respectively, through telephone conference, or other communication mediums whereby all of the persons participating in the meeting may listen in and communicate simultaneously. The participation of any member of the Board or any Board committee in the manner described above shall constitute attendance at said meeting.
- (e) The members of the Board shall not receive any compensation for their services as members of the Board, but shall be entitled to reimbursement for those travel expenses necessarily incurred while performing their official duties, in accordance with the applicable regulations of the Department of the Treasury.
- (f) The Board shall have, without it being construed as a limitation, the following duties and faculties
  - i. to establish the general policy of the Authority in order to comply with the objectives of this Act;
  - ii. to authorize the Authority's work plan and annual budget;
  - iii. to adopt and approve rules and regulations to govern its internal affairs, as well as those that may be necessary to exercise the faculties and powers conferred to it pursuant to this Act;

- iv. subject to Article 604 of this Act, establish the duties and powers of the Executive Director in accordance with the provisions of this Act and establish his or her compensation;
- v. to require any officer or employee of the Authority to provide those reports and statistical data that are deemed necessary;
- vi. to the extent that the Puerto Rico Fiscal Oversight and Economic Recovery Board has not been constituted, to validate or select the independent consultant that will validate the revenue projections of the Commonwealth for any given fiscal year prior to such revenue projection being submitted to the Legislative Assembly as part of the Commonwealth's budget pursuant to Article 4(a) of Act No. 147 of June 18, 1980, as amended;
- vii. to issue summons to require the attendance and testimony of witnesses, as well as the production of any evidence to gather information related to any matter under its jurisdiction and, if any person refuses to obey any summons issued by the Authority, the Authority may apply to the Court of First Instance of the Commonwealth, San Juan Part, for an order to compel such person to appear before the Authority to testify, produce evidence, or both, in relation to the issue under its consideration, which such requests shall be notified in the same manner as they would be notified under the applicable rules of civil procedure;
- viii. to promulgate rules to protect the confidentiality of the information and documents it receives in accordance with the laws and case law in effect in the Commonwealth in matters related thereto, which act of furnishing information or documents as requested by the Authority shall not be construed as a waiver to the right to file a confidentiality claim by any natural or juridical person with respect to the information or the document thus furnished;
- ix. to delegate to any Board committee or to the Executive Director any of the powers and faculties granted to the Authority pursuant to this Act; and

- x. to take all those actions deemed convenient or necessary to carry out the purposes of the Authority pursuant to this Act.

#### SECTION 604.- EXECUTIVE DIRECTOR

- (a) The Authority shall operate under the direction of an Executive Director, who shall be appointed by the Governor, provided, that, if the Board is composed of only one member, said member shall also serve as Executive Director of the Authority. During any period in which the Executive Director is the sole member of the Board of the Authority, the Governor shall establish his duties and powers in accordance with the provisions of this Act and shall establish his or her compensation.
- (b) Without it being understood as a limitation, the duties of the Executive Director shall include the following—
  - i. to be the chief executive officer of the Authority;
  - ii. to draft and submit to the Board the Authority's work plan and annual budget;
  - iii. to approve and monitor any contract necessary for the functioning of the Authority subject to the rules established by the Board;
  - iv. to establish, organize, direct and supervise the Authority's administrative structure;
  - v. to hire personnel and professional persons, including legal advisors, financial advisors, and economists, on reasonable terms and as determined by the Authority, to assist the Executive Director in the performance of the Authority's duties;
  - vi. to establish the functional levels of the Authority's operations, including the power to recruit and contract any of the officers and employees under his or her supervision, subject to the standards established by the Board; and
  - vii. to perform all those other functions assigned to him or her by the Board.

## SECTION 605.- OFFICERS AND EMPLOYEES

- (a) The Authority's personnel are hereby exempted from the provisions of Act. No. 184-2004, as amended, known as the "Public Service Human Resources Administration Act of the Commonwealth of Puerto Rico". All appointments, severances, promotions, transfers, lay offs, replacements, suspensions, leaves and changes in classification, remuneration or title of the officers and employees of the Authority shall be executed and authorized pursuant to the standards and regulations prescribed by the Board, which must conform to the merit principles established in the Puerto Rico Public Service Personnel Act.
- (b) The Authority's Executive Director and the officers and employees shall be entitled to reimbursement for all necessary travel expenses, or to the corresponding per diems, which may be authorized or approved in accordance with the regulations adopted by the Board for the Authority.

## SECTION 606.- IMMUNITIES

In the absence of clear and convincing evidence of gross negligence involving a reckless disregard of their duties or failure to carry them out, members of the Board, officers and employees of the Authority shall not be subject to personal civil responsibility towards any person and shall be compensated by the Authority and exonerated from civil liability for acts or omissions in good faith, in their capacity and within their authority. Any civil action brought before a court that alleges the existence of gross negligence must be dismissed with prejudice if the defendant produces documents showing that he or she received information about the relevant facts, participated in person or by phone and deliberated in good faith or received and relied on expert advice regarding any act or omission which is the basis for the lawsuit.

## SECTION 607.- COLLABORATION AMONG GOVERNMENT ENTITIES

The Authority may request any of the following entities or any successor thereof to provide administrative support and such statistical and professional services reasonably necessary for the Authority to carry out its responsibilities under this Act: GDB, the Department of the Treasury, the Office of Management and Budget, the Puerto Rico Department of Economic Development and Commerce, the



Institute of Statistics and any other instrumentality of the Commonwealth. To the extent possible, the Authority shall reimburse these entities for such services.

#### SECTION 608.- EXEMPTION FROM CERTAIN LAWS

To preserve its administrative independence, which is essential in order for it to carry out the responsibilities granted hereunder, the Authority shall be exempt from the application of the provisions and laws listed in Article 106 a) i. through vii. of this Act and from the application of the provisions and laws from which GDB is currently exempt.

#### SECTION 609.- BANK EMPLOYEES

To the extent the Authority determines, in its discretion, to assume all or some of the permanent, temporary and/or non-union employees of GDB, such employees shall become employees of the Authority. This transfer of employees shall be effectuated while honoring the terms and conditions of employment effective as of the transfer to the Authority, including the rights, privileges, obligations and seniority, acquired pursuant to applicable laws and current personnel regulations, subject to the modifications contained in Act 66-2014 while it remains effective. None of the provisions of this Chapter shall affect the constitutional right to collective bargaining enjoyed by the employees of GDB, nor the vested rights, benefits and privileges, by virtue of any collective bargaining agreements. Rights with regard to any pension or retirement system to which they may be affiliated or members of on the effective date of this Act shall also be guaranteed. The Authority shall be obligated to satisfy to all employees any of their salaries, wages, commissions, including payments related to vacations, allowances and sick leaves or other employment benefits acquired prior to the transfer to the Authority, in accordance with GDB's employment policies or applicable law.

#### SECTION 610.- CONTINUED EFFECTIVENESS OF PRIOR GDB APPROVALS IN RELATION TO BONDS OR SIMILAR OBLIGATIONS

Any resolution adopted by GDB prior to the effective date of the creation of the Authority and that approves the terms or the issue of any bonds or similar obligations or transaction of the Commonwealth or any "Unit" of the Government of the Commonwealth (as defined in Act No. 272 of May 15, 1945, as amended) and of any municipality, shall be valid and shall remain in full force and effect notwithstanding the enactment of this Act or the assumption by the Authority of those powers and responsibilities that are granted to it under this Act, and it shall not

be necessary for the Authority to adopt a resolution approving anew the terms or the issue of such bonds or similar obligations or transaction, notwithstanding that such bonds or similar obligations be issued, or such transaction be completed, after the effective date of creation of the Authority.

#### SECTION 611.- EXISTENCE

The Authority shall exist in perpetuity, unless terminated by subsequent legislation.”

Section 20.- Subsection (a) is hereby eliminated, subsections (b) through (e) are hereby renumbered as subsections (a) through (d), and a new subsection (e) is hereby added to Section 3 of Act No. 20-2015, as amended, known as the “Legislative Community Impact Funding Act,” to read as follows:

#### “Section 3.- Definitions

(a) ...

(b) ...

(c) ...

(d) ...

(e) ‘Designated Banking Institution’ means any banking institution designated by the Special Joint Committee on Legislative Community Impact Funding to be responsible for the disbursement of funds allocated by the Legislative Assembly to NPOs.

...

(m) ...”

Section 21.- Section 7 of Act No. 20-2015, as amended, known as the “Legislative Community Impact Funding Act,” is hereby amended to read as follows:

“Section 7.- Duties and Responsibilities of the Designated Banking Institution and the Department of the Treasury.

The Designated Banking Institution shall be responsible for the disbursement and electronic transfer of the funds deposited in an account to the name of the Committee and allocated to every recipient organization. Likewise, the Designated Banking Institution shall be responsible for notifying the Committee of any Fund surplus as of June 30<sup>th</sup> of each fiscal year, not later than fifteen (15) calendar days after the close of such fiscal year. No disbursement shall be authorized for any recipient organization after May 30<sup>th</sup> of the fiscal year for which the funds were allocated.

The Special Joint Committee on Legislative Community Impact Funding and the Department of the Treasury shall agree on the schedule for the transfer of the funds allocated in accordance with Section 6 of this Act to the account of the Commission in the Designated Banking Institution for such fiscal year.”

Section 22.- Section 14 of Act No. 20-2015, as amended, known as the “Legislative Community Impact Funding Act,” is hereby amended to read as follows:

“Section 14.- Change of Purposes or Dissolution of a Recipient Organization

Any recipient organization that for any reason or condition is dissolved or inactive, or changes its nonprofit purposes shall:

(a) Deliver forthwith to the Committee the articles of dissolution of the NPO or any surplus or unused amount of the funds allocated by means of a certified check payable to the order of the Committee;

(b) ...

(c) ...”

## **CHAPTER II- PUERTO RICO AQUEDUCT AND SEWER AUTHORITY REVITALIZATION ACT**

### Section 1.- Title.-

This Act shall be known as the “Puerto Rico Aqueduct and Sewer Authority Revitalization Act.”

### Section 2.- Declaration of Public Policy.-

To ensure the rendering of water and sewer services to our people while meeting the highest standards of quality and efficiency is an urgent and irreplaceable commitment for the Government. Therefore, it is necessary to provide the Puerto Rico Aqueduct and Sewer Authority with mechanisms that enable it to have the resources required to continue fulfilling, now and in the future, the primary role of overseeing and guaranteeing the rendering of essential services such as the distribution of drinking water and the provision of sewer services. For all of the foregoing, it is hereby declared as the public policy of the Commonwealth of Puerto Rico to provide the Puerto Rico Aqueduct and Sewer Authority with the necessary tools to maximize its potential as an entity, boost the economic development of our society through the performance thereof, and accomplish its social mission for the benefit of our people. None of the provisions of this Act, of future agreements entered into with Authority’s creditors, or of any lawful business conducted by the Corporation prior and subsequent to the effective date of this Act shall be binding upon or create obligations between the Customers or the Commonwealth of Puerto Rico and the creditors of the Corporation and the Authority.

Chapter 1.- Of the Puerto Rico Aqueduct and Sewer Authority Revitalization Act.

### Section 3.- Definitions.

The following words or terms shall have the meaning expressed below when used in this Act, unless the context clearly indicates otherwise:

(1) “System Assets” - means the Commonwealth Aqueduct System and/or the Commonwealth Sewer System, as defined in Act No. 40 of May 1, 1945, as amended. It also includes any parts of the system, whether now existing or hereafter acquired, owned by the Authority as of the effective date of this Act or thereafter acquired for use by the Authority, including any successor utility, to provide water and/or sewer service to customers.

(2) “Authority” - means the Puerto Rico Aqueduct and Sewer Authority, a public corporation and government instrumentality established and existing by virtue of Act No. 40 of May 1, 1945, as amended, and any successor or successors thereto, including successors referred to in Section 7 of this Act.

(3) “Puerto Rico Financial Advisory and Fiscal Agency Authority” (PRFAFAA) - means the entity created under Act No. 21-2016, known as “Puerto Rico Emergency Moratorium and Financial Rehabilitation Act,” to act as fiscal agent, financial advisor, and reporting agent of the Commonwealth of Puerto Rico and its instrumentalities, including public corporations, which shall be responsible for the review and final approval of the Financing Resolution in accordance with the procedure established in this Act or the successor entity of the Government Development Bank designated to act as fiscal agent of the Commonwealth of Puerto Rico.

(4) “Bonds” - means the Bonds, or other evidences of long-term indebtedness issued by the Corporation pursuant to this Act, any Financing Resolution and the Trust Agreement related thereto: (a) the proceeds of which are used, directly or indirectly, to finance or refinance Approved Financing Costs; (b) which are directly or indirectly secured by, or payable from, Financing Property; and (c) which term does not exceed thirty-five (35) years.

(5) “Cause” - means, with respect to a director of the Corporation: (i) actions or omissions of such director that constitute recklessness, bad faith or gross

negligence with respect to the duties of such director pursuant to this Act and other organizational documents of the Corporation; (ii) that such director has been involved in, or accused of, or convicted of, fraud or other actions constituting an offense under any law applicable to such director; (iii) such director's inability to perform his duties as director due to death or disability; (iv) such director's failure to meet the requirements of this Act; or (v) any other action or omission as set forth in this Act.

(6) "Cancellation" (Defeasance) - means with respect to any debt, the legal or economic defeasance of such debt. "Cancel" (Defeasance) has a meaning correlative thereto.

(7) "Revitalization Charges" - means those rates and charges that are separate from the rates and charges of the Authority and that are imposed on Customers by the Corporation in accordance with a Financing Resolution to recover the Ongoing Financing Costs, and shall include a pro rata share of any late payment fee imposed with respect to any past due bill for water and/or sewer service, which includes therein an amount for Revitalization Charges.

(8) "Customer" - means any Person that is connected to or takes or receives water and/or sewer services within the Commonwealth of Puerto Rico, through the facilities that constitute part of System Assets. The Authority shall not be considered a Customer.

(9) "Ancillary Agreement" - means any bond insurance policy, letter of credit, reserve account, surety bond, swap agreement, hedging agreement, liquidity or credit support annex or other agreement intended to promote the credit quality and marketability of the Bonds or to mitigate the risk of a change in interest rates.

(10) "Trust Agreement" - means a trust agreement, trust indenture, master agreement of trust or similar contract or agreement entered into by the Corporation and the Trustee establishing the rights and responsibilities of the Corporation and of

the holders of the Bonds issued thereunder and secured thereby. None of the provisions of the Trust Agreement entered into prior to the approval of this Act shall be deemed to be binding upon or create obligations between the Customers or the Commonwealth of Puerto Rico and the creditors of the Corporation and the Authority.

(11) “Servicing Contract” means the contract or contracts between the Corporation and the Servicer providing for the administration and servicing of Financing Property, as the same may be amended from time to time by the parties thereto in a manner not prohibited by this Act.

(12) “Corporation” - means the Puerto Rico Aqueduct and Sewer Authority Revitalization Corporation, a special-purpose public corporation and a government instrumentality of the Commonwealth of Puerto Rico, created pursuant to Section 4 of this Act.

(13) “Financing Costs” - means the costs to issue, service, repay, or refinance the Bonds, whether incurred upon issuance of such Bonds or over the life of the Bonds, the recovery of which is authorized in a Financing Resolution. Without limitation, “Financing Costs” may include, as the case may be, any of the following:

a. the principal of, interest on, and redemption premiums payable on, the Bonds;

b. any payment required under the terms of an Ancillary Agreement and any amount required to fund or replenish (or to reimburse a third party for replenishing) a debt service reserve fund or account, operating reserve fund or account, or other fund or account established in accordance with a Trust Agreement, any Ancillary Agreement, resolution or other financing document related to the Bonds;

c. any federal or state taxes or charges, including federal or state payments or contributions in lieu of taxes, franchise fees or license fees imposed on

Revitalization Charge Revenues (but excluding any Commonwealth or local taxes, fees or contributions or payments in lieu of taxes);

d. any cost related to administering the Corporation, the Bonds or the Financing Property, including the costs of implementing the Adjustment Mechanism, of the Trustee (and other similar fiduciary), legal, accounting and other consultants, depository, calculation agent, manager, credit rating agency fees and expenses, and Servicing Fees and expenses, in each case, subject to the provisions of this Act;

e. any cost related to protecting the status of Financing Property and collecting Revitalization Charges, including any cost related to any judicial or similar proceedings that the Corporation or the Trustee or any owner of all or a portion of Financing Property deems necessary to demand the payment of or collect Revitalization Charge Revenues, or protect the Financing Property or any other costs referred to in Section 10 of this Act, in each case, subject to the provisions of this Act; and

f. any other cost related to issuing the Bonds, or administering and servicing the Financing Property and the Bonds, including the costs of calculating adjustments to the Revitalization Charges, Servicing Fees and expenses, Trustee's (or similar fiduciary) fees and expenses, legal fees and expenses, accounting fees and expenses, administration fees and expenses, placement fees and expenses, underwriting fees and expenses, printing and marketing fees, filing or listing fees, fees and expenses of the Corporation's other consultants, if any, rating agency fees, and any other cost approved by the Board of the Corporation as necessary or desirable to achieve the purposes of this Act.

(14) "Upfront Financing Costs" - means the Financing Costs related to the costs of structuring, marketing, and issuing the Bonds, except to the extent that the Corporation determines to pay said costs as Ongoing Financing Costs payable from



Revitalization Charge Revenues. Upfront Financing Costs include, without limitation, Trustee's (or similar fiduciary) fees and expenses, legal fees and expenses, accounting fees and expenses, servicer set-up rates or expenses, calculation agent, depository or other manager or fiduciary placement fees and expenses, underwriting fees and expenses, printing and marketing fees, filing or listing and compliance fees, fees and expenses of the Corporation's other consultants, if any, credit rating agency fees, fees and expenses of the guarantor, and any other cost approved by the Board of the Corporation as necessary or desirable to achieve the purposes of this Act, and shall include reimbursement to any Person of amounts paid in advance to cover such costs. Within the costs related to the Capital Improvement Program, only costs related to the works and improvements of water and/or sanitary sewer services and facilities providing direct services to Customers shall be included as Approved Financing Costs; no type of construction or improvements to the Authority's management offices or headquarters shall be included, except those constructions, investments or improvements that are strictly necessary to meet the requirements of a health, safety or compliance organization and/or those that generate efficiencies or savings as a result of technological improvements or information systems.

(15) "Approved Financing Costs" - means any or all of the following costs approved under a Financing Resolution: (a) exclusively the capital costs related to the Authority's Capital Improvement Program for a period of up to three (3) years after the date of issuance, including those projects of the Capital Improvement Program that have been initiated but not completed before the approval of this Act, even though the Corporation has borrowing capacity to issue a larger amount of debt, as provided in Resolution No. 2984 adopted by the Governing Board of the Authority on June 3, 2016; including all projects that were postponed, halted, or stopped due to the lack of funds of the Authority; (b) the payments applicable to the

Authority's accumulated debt, as of the approval of this Act, related to the accounts payable of the Capital Improvement Program, including the reimbursement to the Authority of any advances made, if any, from its operating funds to the Capital Improvement Program, as well as the payment of any amount owed to the providers of goods or services related to the implementation of the Capital Improvement Program that are pending payment; (c) the refinancing of lines of credit or other short-term debt instruments, such as notes, bonds, promissory notes or other type of interim financing issued or incurred by the Authority in anticipation of the issuance of bonds of the Authority or Bond Anticipation Notes or BANs issued to achieve the purposes of this Act; (d) the costs of retiring, canceling (defeasing), or refinancing all or part of the Authority's debt obligations or Bonds; (e) rebate, yield reduction payments and any other amounts payable to the United States of America to preserve or protect the federal tax exemption on outstanding debt obligations of the Authority or the Corporation; (f) deposits from proceeds of the issuance of Bonds made to a capitalized interest fund or account, a debt service reserve fund or account, or an operating reserve fund or account established in connection with such Bonds; (g) costs related to legitimate labor negotiations of debt pending payment by the Authority; and (h) subject to any limitations provided in this Act, the Financing Costs. The operating expenses of the Authority or the costs, if any, of financing said operating expenses shall not be deemed to be Approved Financing Costs under this Act.

(16) "Ongoing Financing Costs" - means Financing Costs other than Upfront Financing Costs and any excess of Upfront Financing Costs incurred over the Corporation's estimate of Upfront Financing Costs that are payable from the proceeds of the issuance of the Bonds.

(17) "Financing Entity" - means any Servicer, Trustee (or similar fiduciary), collateral or escrow agent, or other Person acting for the benefit of the holders of the

Bonds or the Corporation that may own Financing Property or is entitled to receive proceeds of the Bonds.

(18) “Trustee” - means the trustee party to a Trust Agreement that represents the holders of the Bonds issued and secured thereunder.

(19) “Non-bypassable” - means that Revitalization Charges shall be paid by all Customers, even if after the date of approval of this Act, the Customers opt to partially disconnect from the Authority’s water and/or sewer systems for the purpose of being supplied with drinking water produced or distributed through an alternative provider of services similar to the Authority, or dispose of sewage or wastewater by an alternative provider of services similar to the Authority. “Non-bypassability” shall have the same meaning.

(20) “Revitalization Charge Revenues” - means any money and other property received or to be received, directly or indirectly, on account of the Revitalization Charges, and all proceeds of the investment thereof.

(21) “Board” - means the board of directors of the Corporation established pursuant to Section 4 of this Act.

(22) “Servicer” - means the Authority, to the extent permitted by this Act, and if the Authority is replaced as Servicer pursuant to a Servicing Contract, it means the Person or Persons authorized and required, by contract or otherwise, to impose, bill, or collect Revitalization Charges, to prepare periodic reports on the billings and collections of Revitalization Charges, to remit collections by or on behalf of the Corporation or the assignees or creditors thereof, including a Financing Entity, and to render other related services to the Corporation, which may include the calculation of periodic adjustments to the Revitalization Charges or the rendering of other services related to the Financing Property; and it shall be understood to include any subservicer, backup servicer (including if it becomes a Servicer under a Servicing

Contract), replacement servicer, or the successors of any of the foregoing, authorized to act as such under a Financing Resolution.

(23) “Adjustment Mechanism” - means the formulaic adjustment mechanism by formula contained and approved in a Financing Resolution, to be applied by the Corporation periodically, and at least semi-annually, to adjust the Revitalization Charges and ensure the collection of Revitalization Charge Revenues sufficient to provide for the timely payment of Ongoing Financing Costs. The establishment and adjustment of the Revitalization Charges by the Corporation in relation to the Adjustment Mechanism shall not be subject to legislative or any other government review or approval, except as provided in Section 6 of this Act, regarding the correction of mathematical errors, and in Section 7 of this Act regarding the approval of the Adjustment Mechanism.

(24) “Person” - means any natural or juridical person, including any local agency, or any individual, firm, partnership, joint venture, trust, corporation of individuals, association, public or private corporation, municipality, organized and existing under the laws of the Commonwealth of Puerto Rico, the United States of America, or any state, any agency or instrumentality of the United States of America, or any combination of the above.

(25) “Interested Person” - means (a) the trustee representing the holders of the Authority’s outstanding Bonds, (b) the securities depository, if any, where any of such Bonds shall be deposited; (c) any holder of the Authority’s outstanding debt obligations or any Person providing credit or liquidity support, including financial guaranty insurance, to any or all of such obligations; (d) any financial institution to which the Authority is indebted (other than through the securities depository) or otherwise obligated; (e) the Secretary of Justice of the Commonwealth of Puerto Rico; (f) any Customer; (g) any of the Authority’s providers of goods and services other than a Customer of the Authority, as defined in this Act; (h) any Person that

has filed with the secretary of the Board of the Corporation or with the Authority a request to receive the notice set forth in Section 7(c)(2) of this Act; (i) any Person that would otherwise be entitled to receive notice or information about the adjustment of the Authority's rates and charges; and (j) any other Person interested in the matters raised in the proceedings provided for in Section 7(c) of this Act.

(26) "Capital Improvement Program" - means the plan of investments in infrastructure and other capital assets prepared annually by the Authority and updated, from time to time, stating in detail the projects to be developed by the Authority within the next ten (10) years, and certified by an expert independent consultant in water and sewer systems. It also includes the substitution or periodic replacement of customer's meters.

(27) "Financing Property" - means a Financing Resolution and the property rights and interests created thereby, including the right, title and interest in: (a) the right to create and receive Revitalization Charges; (b) the Revitalization Charges, as adjusted from time to time in accordance with the Adjustment Mechanism, including any rights under a Servicing Contract assigned pursuant to the corresponding Trust Agreement or other security agreement; (c) all revenues, collections, claims, payments, money, or proceeds from the Revitalization Charges or constituting Revitalization Charges, regardless of whether such revenues, collections, claims, payments, money, or proceeds are billed, received, collected or maintained by the Authority or by the Corporation together with or commingled with other revenues, collections, claims, payments, money, or proceeds; (d) all rights to obtain adjustments to the Revitalization Charges pursuant to the terms of the Financing Resolution related thereto; and (e) all reserves established in connection with the Bonds or the Financing Property. Upon the issuance of the Bonds, the Financing Property shall constitute a vested and existing property right in the assets of the Corporation, as initial owner, subject to Section 8 and any pledge of Financing

Property pursuant to this Act, notwithstanding the fact that the value of the property right shall depend on further actions that have not yet occurred, including Customers remaining or becoming connected to the System Assets and taking or receiving water and sewer service, the imposition and billing of Revitalization Charges, or the rendering of services by the Authority. The term “Financing Property” shall not include the Authority’s real property or the property rights created thereon.

(28) “Financing Resolution” - means a resolution of the Board of the Corporation adopted in accordance with this Act, whereby the Financing Property is created and the imposition and collection of Revitalization Charges, as well as the Approved Financing Costs, are approved through the issuance of Bonds, which resolution contains the Adjustment Mechanism, as provided in Section 6 of this Act.

(29) “Servicing Fee” - means the periodic amount paid to a Servicer for its services required in connection with the issuance of Bonds and the administration and servicing of Financing Property.

(30) “Third-party Biller” - means any Person authorized to bill or collect Revitalization Charges other than the Corporation, the Authority, or a Servicer, if different from the Authority.

(31) “Court” - shall have the meaning provided in Section 7(c)(1) of this Act.  
Section 4.- Creation of Corporation.

(a) A special-purpose public corporation and autonomous government instrumentality of the Commonwealth of Puerto Rico is hereby created to be known as the “Puerto Rico Aqueduct and Sewer Authority Revitalization Corporation,” which shall exercise essential governmental and public powers. The Corporation shall not be created or organized for profit. None of the directors, officials, or any other private Person shall derive any benefit or receive a distribution related to the revenues or assets of the Corporation, except as herein provided as reasonable compensation for services rendered.

(b)

(1) The Corporation shall be governed by a Board composed of three (3) directors. Until the Governor appoints the official directors in accordance with paragraph (2) of this subsection (b), the President of the Government Development Bank for Puerto Rico, the Secretary of the Department of the Treasury of the Commonwealth of Puerto Rico, and the Secretary of State of the Commonwealth of Puerto Rico shall serve as ex officio directors whose terms shall expire on the date on which the Governor makes the appointments from the list referred to below in paragraph (2) of this subsection (b).

(2) The official appointment of the directors shall be made by the Governor with the advice and consent of the Senate. Official directors shall be appointed and begin to discharge their duties on or before July 1st, 2016. Directors so appointed by the Governor shall be selected from a list of at least ten (10) candidates to be prepared by a recognized executive search firm, according to objective criteria that takes into account the professional and educational backgrounds of the candidates. The Governor, at his discretion, shall evaluate the list of recommended candidates and choose three (3) individuals from said list. If the Governor fails to appoint three (3) directors from such list within twenty (20) days after the submission of the list to the Governor, the aforementioned search firm shall submit another list within thirty (30) days. The Governor may remove a director only for Cause.

(3) Ex officio acting directors shall hold their respective positions as directors as long as they hold their current positions. Of the official directors originally appointed by the Governor, one (1) shall serve for a term of four (4) years from the date of appointment, one (1) shall serve for a term of five (5) years from the date of appointment, and one (1) shall serve for a term of six (6) years from the date of appointment. Each director shall continue to hold office until his/her

successor is appointed and qualified. Except for ex officio acting directors, all members of the Board of the Corporation shall be required to meet the director independence requirements under the Final New York Stock Exchange Corporate Governance Rules (NYSE Independent Director Rules). Nothing in this Act shall preclude a Customer from becoming a director solely because such Person is a Customer. Ex officio acting directors shall not receive compensation for services rendered as directors. Official directors shall receive a market-based compensation comparable to that received by board members of local institutions of similar size, complexity, and risks. Said compensation shall never exceed fifty thousand dollars (\$50,000) annually.

(4) In the event of vacancy in the position of an official director, the Governor shall appoint the person who shall fill such vacancy for the remainder of the unexpired term of the original appointment, following the appointment process whereby official appointments were made, and subject to the laws applicable to the preservation of the tax exemption or preferential tax treatment of the interest on any Bonds.

(5) In addition to the requirements established in this Section 4(b), no Person may become an official director if he: (i) is an employee, retiree, or has any direct or indirect substantial interest in any private company with which the Corporation or the Authority has entered into any contracts or with whom it engages in transactions of any kind, other than the purchase of water and/or sewer services under generally applicable rates and tariffs; (ii) within two (2) years before holding office, has had a business relationship with or any interest in any private company with which the Corporation, the Authority, the Government Development Bank for Puerto Rico, or the Commonwealth of Puerto Rico has entered into any contracts or with whom it engages in transactions of any kind, other than the purchase of water and/or sewer services under generally applicable rates and tariffs; (iii) has been,



during the year immediately preceding his appointment, a member of a local or central directing body of a political party registered in the Commonwealth of Puerto Rico; (iv) is an employee, member, advisor, or contractor of the Authority's labor unions; or (v) has failed to provide the certification of having filed income tax returns during the five (5) preceding taxable years issued by the Department of the Treasury, a certification of having no debts outstanding with the Authority, a Certificate of Criminal Record issued by the Puerto Rico Police Department, as well as negative certifications of the Child Support Administration (ASUME, Spanish acronym) and the Municipal Revenues Collection Center (CRIM, Spanish acronym).

(6) Except for ex officio directors, no director shall be considered a public employee under the terms of Section 5.1 of Act No. 1-2012, as amended, known as the "Puerto Rico Government Ethics Act."

(7) Each director shall have a fiduciary duty to act in the best interests of the Corporation, including the holders of the Bonds and its other creditors, and such other duties as may be specified in the organizational documents or other agreements of the Corporation.

(8) A majority of the directors at the time serving shall constitute a quorum to make decisions or exercise of any power or function of the Corporation. The Board of the Corporation may delegate to one or more of its directors, or officials, agents and employees, such powers and duties as the Board of the Corporation may deem appropriate.

(c) Without impairing the rights granted under Section 5 of this Act, the Board of the Corporation and the officials, agents, and employees of the Corporation shall not be held civilly liable for any actions taken in good faith in the discharge of their duties and responsibilities under this Act; unless it is established, that they engaged in conduct constituting an offense, breach of fiduciary duty, or gross negligence, and shall be indemnified for any costs incurred in connection with any claim for which

they enjoy immunity as provided herein. The Board of the Corporation, its directors, as well as any officials, agents, or employees of the Corporation shall also be fully indemnified for any civil liability adjudicated under the laws of the United States of America. The Governing Board and each director, official, agent, and employee of any Servicer shall be entitled to immunity from personal liability as provided by law and, in absence thereof, to the immunity from personal liability provided in this Section 4(c).

Section 5.- Powers of the Corporation; No Merger.

(a) The Corporation is hereby authorized to:

- (1) Adopt Financing Resolutions;
- (2) In consideration of providing financial assistance to the Authority by payment of Approved Financing Costs, impose and collect Revitalization Charges in connection with the financing of Approved Financing Costs through the issue of Bonds for the benefit of the Authority, including (i) making such Revitalization Charges mandatory to Customers, and (ii) approving an Adjustment Mechanism prior to the issue of the Bonds;
- (3) Issue Bonds as stated in a Financing Resolution and to pledge the Financing Property to the payment thereof;
- (4) Provide for and direct the use of proceeds of Bonds on behalf of the Authority in accordance with a Financing Resolution and a Trust Agreement entered into by the Corporation in connection with such Bonds; and
- (5) Contract for the administration and servicing of Financing Property and Bonds, and for administrative services, including hiring a manager or administrator other than an employee of the Authority.

(b) The Corporation shall have no authority to engage in other business activities; but shall, in connection with the powers provided in subsection (a) of this Section 5, have the power to:

(1) Sue and be sued; and settle claims or litigation on such terms as the Board of the Corporation may approve;

(2) Have a seal and alter the same at its will;

(3) Draft and modify by-laws for its internal organization and operations and adopt and modify rules and regulations governing its operations and the use of its property, in each case, in accordance with the limitations set forth in this Act;

(4) Draft and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this Act and to bring any action to protect or enforce any right conferred upon it by any law, contract or other agreement, including to draft and execute contracts with the Authority, any other Servicers, any Financing Entity or any other Person (public or private) to administer and service Financing Property, to service Bonds issued by the Corporation and to provide administrative services to the Corporation, and to pay compensation for such services;

(5) Appoint officials, agents, and employees, establish their duties and functions, fix their compensation, and hire consulting, accounting, legal, and other services under contract to provide professional and technical assistance and advice, as well as pay compensation therefor;

(6) Pay its operating expenses, scheduled debt service on Bonds, and other Ongoing Financing Costs;

(7) Comply with the terms and conditions of the Bonds;

(8) Implement and enforce the Adjustment Mechanism in accordance with the corresponding Financing Resolution and Servicing Agreement;

(9) Procure insurance as necessary against any loss in connection with its activities, properties, and assets;

(10) Invest any funds under its custody and control in financial instruments with an investment grade credit rating or under any Ancillary Agreement;

(11) Establish and maintain such reserves and special fund accounts, to be held in trust or otherwise, as may be required by agreements entered into in connection with the Bonds, or any agreement between the Corporation and third parties;

(12) Pledge and create liens on all or any portion of its revenues or assets, including Financing Property, unspent proceeds of its Bonds, Revitalization Charge Revenues, and earnings from the investment and reinvestment of unspent proceeds of its Bonds and Revitalization Charge Revenues, as collateral for the payment of the principal of and interest on any Bonds issued by the Corporation pursuant to this Act, and any agreement entered into in connection therewith; and

(13) Exercise such other corporate powers not inconsistent with this Act, as are conferred upon corporations by the laws of the Commonwealth of Puerto Rico and take any and all actions necessary or convenient to achieve its purposes and exercise the powers expressly conferred and granted in this Section.

(c) So long as any Bonds remain outstanding or until any Financing Costs that have or may become due are paid in full, the Corporation shall not be authorized to dissolve, liquidate, or transfer or sell all or substantially all of the Corporation's assets (except as expressly provided in the applicable Trust Agreement), or merge or consolidate, directly or indirectly, with any Person. Additionally, the Corporation shall not have the power or authority to incur, guarantee, or otherwise commit to pay any debt or other obligations other than Bonds and Financing Costs unless otherwise allowed by a Financing Resolution. The Corporation shall not own any assets or property other than the Financing Property, incidental personal property necessary for the possession and operation of the Financing Property and any financial

instrument with an investment-grade credit rating in accordance with the terms of the Bonds. The Corporation shall keep its assets and liabilities separate and distinct from those of any other Person, including the Authority.

(d) The Corporation shall not pledge its assets to secure the obligations of any other Person or hold out its credit as being available to satisfy the obligations of any other Person.

(e) The Corporation and the Authority shall keep its books, financial records, and accounts (including inter-entity transaction accounts) in a manner so as to identify separately the assets and liabilities of each such entity from those of any other Person; each shall observe all corporate procedures and formalities, including, where applicable, the holding of regular periodic and special meetings of the governing bodies thereof, the recording and maintenance of minutes of such meetings, and the recording and maintenance of resolutions adopted at such meetings, if any; and all transactions and agreements by and among the Corporation, the Authority, and any Person shall reflect the separate legal existence of each entity and shall be formally documented in writing. The Corporation shall not engage in any transaction with an affiliate of the Authority, the Corporation, the Government Development Bank for Puerto Rico, or the Commonwealth of Puerto Rico, except under terms similar to those available to unaffiliated Persons in a transaction between third parties.

(f) The Corporation and the Authority shall each have separate annual financial statements, prepared in accordance with generally accepted accounting principles that reflect the separate assets and liabilities of each such entity and all transactions and transfers of funds involving each of such entities, and each shall pay or bear the cost of the preparation of its own financial statements regardless of whether such statements (whether audited or not) are prepared internally or by a public audit firm that prepares or audits its financial statements.

(g) The Corporation and the Authority shall pay their respective liabilities and losses from their own respective separate assets. In compliance with the foregoing, the Corporation shall compensate employees, consultants, independent contractors, and agents from its own funds for services provided to the Corporation by such employees, consultants, independent contractors, and agents. The Corporation shall maintain a sufficient number of employees in accordance with its business purpose.

(h) The Corporation and the Authority shall not commingle any of their assets, funds, or liabilities with the assets, funds or liabilities of any other Person. Each of them shall conduct all business with third parties in its own name, separate from the other and shall correct any known misunderstanding regarding its separate identity.

(i) Neither the assets nor the creditworthiness of the Authority shall be deemed to be available for the payment of any liability of the Corporation, and vice versa. Assets shall not be transferred between the Authority and the Corporation in a manner that is inconsistent with this Act, or with the intent to hinder, delay or defraud creditors.

(j) The Authority, in its documents and the statements of its officials, shall refer to the Corporation as a separate and distinct legal entity, and shall take no action that is inconsistent with this Act or that would give any of its creditors reason to believe either that any such obligations incurred by the Authority would be not only an obligation of the Authority, but also of the Corporation, or that the Authority were not or would not continue to be an entity separate and distinct from the Corporation.

#### Section 6.- Content of Financing Resolution.

In connection with any issuance of Bonds, the Financing Resolution related thereto, in addition to the other matters required to be included in such Financing Resolution by this Act, shall contain provisions, among others: (i) specifying the maximum amount of Bonds authorized to be issued, including parameters or

limitations for such maturities, scheduled maturities, interest rates, or interest rate determination methods and other details of the Bonds as the Board deems appropriate; (ii) a description of the Approved Financing Costs to be paid through the issuance of the Bonds and recovered from Revitalization Charges; (iii) specifying the qualitative or quantitative limitations on Financing Costs to be recovered (which shall not impair the ability to pay and service the Bonds in accordance with their terms); (iv) specifying the calculation methodology to determine the amount of Revitalization Charges; (v) describing of the Adjustment Mechanism to be applied based on the methodology for allocating Revitalization Charges to reconcile actual collections with projected collections on at least a semi-annual basis to ensure that the collections of Revitalization Charges are adequate to pay the principal of and interest on the associated Bonds when due, pursuant to the expected amortization schedule, to fund all debt service reserve funds or accounts to the required levels and to pay when due all Ongoing Financing Costs; (vi) describing the benefits for Customers and the Authority that are expected to result from the issuance of Bonds; (vii) concluding that the calculation methodology determined pursuant to clause (iv) and the Adjustment Mechanism described in clause (v) are practicable and reasonable to administer and ensure full and timely payment of the Bonds; (viii) authorizing the creation of the Financing Property and specifying that it shall be created and vested in the Corporation upon the issuance of the Bonds and addressing such other matters as may be necessary or desirable for the marketing or servicing of the Bonds or the servicing of the Financing Property; (ix) authorizing the imposition, billing, and collection of Revitalization Charges to pay debt service on the Bonds and other Ongoing Financing Costs; (x) describing the Financing Property that shall be created pursuant to the Financing Resolution and vested in the Corporation upon the issuance of the Bonds and that may be used to pay and secure the payment of the Bonds; (xi) authorizing the Corporation to enter into and execute

one or more servicing, billing, or collection agreements with one or more Servicers and other agents, and providing for the appointment of co-Servicer or subservicer upon the occurrence of such events as the Corporation, being advised by its consultants, determines enhances the marketability of the Bonds; (xii) authorizing the Corporation to enter into and execute one or more depository, trust, or escrow agreements with financial institutions or other Persons providing for the escrowing and allocation of the collections of Customer bills between the Authority and the Corporation, as the Corporation, in consultation with such advisers as it may deem appropriate, determines enhances the marketability of the Bonds; (xiii) requiring the filing of such billing and collection reports relating to the Revitalization Charges as the Corporation may require from the Servicer (at least monthly); (xiv) approving and authorizing the form, execution and delivery of a Trust Agreement; (xv) describing in detail such other conclusions, determinations, and authorizations as the Corporation, with the advice of its consultants, deems appropriate; and, (xvi) certify that the Revitalization Charges related to the Bonds issued and to be issued shall not exceed, in the aggregate, twenty percent (20%) of the charges billed by the Authority; (xvii) itemize which projects within the Authority's Capital Improvement Program shall be financed with such issuance, which as of the date of approval of this Act shall include all infrastructure projects that were postponed, halted or stopped because of Authority's lack of funds, as detailed in Resolution No. 2984 approved by the Authority's Governing Board on June 3, 2016 that are itemized in the following manner:

- i. Construction of Valenciano Water Treatment Plant Phase I and Improvements to the Ceiba Sur Intake Facilities;
- ii. Improvements to Isabela's Water Treatment Plant and Distribution System to Eliminate the Rocha Water Treatment Plant;



- iii. Extension of the Sanitary Sewer System at the Northeast side of the Municipality of Añasco in Quebrada Larga, Caracol, Piñales, Hatillo, and La Playa Wards (Completion of the Project);
  - iv. Ponce Sanitary Trunk Sewer Rehabilitation;
  - v. Sanitary Sewer Plant (Completion);
  - vi. Installation of New Controlled Access Gates at Golden Hills;
  - vii. Sanitary Sewer System for Las Brumas, La Ley, Marginal La Ley, Pepe Hoyos, and Santa María Communities;
  - viii. Design and Construction of Improvements to Guajataca Water Treatment Plant – Rehabilitation and Installation of Two Package Plants Modules;
  - ix. Las Croabas Sanitary Sewer System;
  - x. New Primary Sedimentation Tank for the Toa Vaca Water Treatment Plant;
  - xi. Completion of the Sandín Community Sanitary Sewer System;
  - xii. Improvements to the Sammy Vélez Community Drinking Water Distribution System;
  - xiii. Improvements to a Sanitary Sewer Plant;
  - xiv. Relocation of Sanitary Trunks, PR-111 & PR-125;
  - xv. Improvements to Bayamón Sanitary Sewer Plant, Phase I;
  - xvi. Construction of New Offices “Site Works” - Phase II;
  - xvii. Quebrada Water Treatment Plant LT2 Compliance Improvements;
  - xviii. Electrical and Mechanical Improvements to and Installation of an Emergency Generator in the Raw Water Intake facilities of the Water Treatment Plant;
  - xix. New CT/Distribution Tank for the Corozal Urbana Water Treatment Plant;

- xx. Puerto Nuevo WWTP Grit Collection Facility/New Septic Receiving Stations and Roadway Improvements;
- xxi. Improvements to Ponce Vieja Water Treatment Plant and Construction of a New 4 MG Tank;
- xxii. Rehabilitation of Lago Cidra Dam;
- xxiii. Rehabilitation of Candelas Pump Station;
- xxiv. Non-Revenue water reduction program, large and small meters;
- xxv. (Group 10) Water Treatment Plant Rehabilitation Program, Group 10;
- xxvi. Replacement of Carite Plant III's Penstock supplying Guayama Water Treatment Plant;
- xxvii. Soil Stabilization at Las 300 Pump Station, PR-128;
- xxviii. Replacement of Las Americas Residence Extramural Sanitary Sewer System;
- xxix. Villalba Regional Aqueduct Water Transmission Line from Juana Díaz to Coamo, Los Llanos and El Encanto Chlorination Rooms;
- xxx. Improvements to the filter system at Cayey WWTP;
- xxxi. Interconnection of Arecibo Urbano System to the North Coast Aqueduct;
- xxxii. Elimination of La Máquina Water Treatment Plant;
- xxxiii. Design and Construction for the Rehabilitation of Sanitary Sewer Plant;
- xxxiv. LT2 Compliance Improvements to Vega Baja Water Treatment Plant;
- xxxv. Improvements to Water Treatment Plant – Compliance;
- xxxvi. Elimination of Alturas de Orocovis Waste Water Treatment Plant and El Gato Community Sanitary Sewer System Phase 1;

- xxxvii. (Group 16) Water Treatment Plant Rehabilitation Program (Group 16);
- xxxviii. (Group 12) Water Treatment Plant Rehabilitation Program (Group 12);
- xxxix. Improvements to the Drinking water distribution system at Camarones Centro, Santa Rosa I Ward, Phase II;
  - xl. Cedro Arriba WTP Compliance Upgrade;
  - xli. Design Build for the Construction of New Distribution Tank at Cerro Marquez and Pipeline;
  - xlii. Morovis Sur WTP Compliance Improvements;
  - xliii. Repair, Replacement and Renovation – Minor Construction Work;
  - xliv. LT2 Compliance Improvements to the Aguas Buenas Treatment Plant;
  - xlv. Improvements to Morovis Urbana Water Treatment Plant;
  - xlvi. Improvements to the Water Filter System at Guilarte Water Treatment Plant;
  - xlvii. Structural Improvements to Levittown Sanitary Pump Station;
  - xlviii. Water hammer Arrest System for La Plata Raw Water Pipe;
  - xlix. Improvements LT2 to the Luquillo Urbana Water Treatment Plant;
    - 1. La Plata WTP (Reservoir) – Phase I Correction of Security Issues at Dam (Drainage and Recess);
      - li. Elimination of Villa Taína Wastewater Treatment Plant (Phase II) – Improvements to Palmarejo Station;
      - lii. Improvements to the Gurabo Water Treatment Plant;

- liii. Repair, Replacement and Renovation – Minor Construction Work;
- liv. Improvements to Urbana Water Treatment Plant;
- lv. Design and Construction of Administrative Offices in the Operations Center of the Manatí Area;
- lvi. Río Grande Estates Sanitary Trunk Sewer or divert to Coco Beach, Rio Grande
- lvii. Jiménez WTP (STC), Río Grande
- lviii. Improvements to the raw water intake of the Guzmán Arriba Water Treatment Plant, Río Grande
- lix. Study and rehabilitation of the sanitary sewer system in Río Grande Estates, Rio Grande.

Any Financing Resolution, Financing Property, Adjustment Mechanism, and all other obligations of the Corporation set forth in such Financing Resolution shall be direct, explicit, irrevocable, Non-bypassable and unconditional upon issuance of the Bonds, and legally enforceable against the Authority and the Corporation. Except for the requirements in Section 7 (b) of this Act, the Revitalization Charges and the Adjustment Mechanism shall only be subject to the agreement signed and ratified by the boards of directors of the Corporation and the Authority, and shall not be subject to any other provision of law, including the provisions of Act No. 21 of May 31, 1985, or Act No. 40 of May 1, 1945, as respectively amended, or any other provision of law requiring or providing for the review or approval of rates by any government entity, or the holding of public hearings or notice of rate changes of any government entity, including the Legislative Assembly. No other government entity shall adopt any regulations, rules, or procedures nor take any other action that would delay or adversely affect the implementation of the Adjustment Mechanism or the collection of Revitalization Charge Revenues.

The review by the Corporation of the periodic adjustment of Revitalization Charges pursuant to the Adjustment Mechanism shall be limited solely to the mathematical accuracy of the calculations of the amount of such adjustments, and in connection to each such review by the Corporation, it shall retain the services of one or more Persons with the necessary experience to review the mathematical accuracy of such periodic adjustments. If the Corporation determines that the calculation of any adjustment to the Revitalization Charges is mathematically inaccurate, such adjustment shall be modified on or before the following application of the Adjustment Mechanism and the over or under estimation of collections resulting from such mathematical inaccuracy shall be credited to or added in the following application of the Adjustment Mechanism, as the case may be, but no Customer shall be entitled to a refund of Revitalization Charges or the retroactive application thereof by reason of mathematical inaccuracies in such periodic adjustments. No adjustment of Revitalization Charges pursuant to the Adjustment Mechanism shall in any way affect the irrevocability or Non-bypassability of the Financing Resolution related thereto. The Corporation is hereby authorized to hire one or more persons to review the calculation of Revitalization Charges prepared by the Servicer. The Authority is hereby authorized and directed to provide the Corporation and the agents thereof with any information required by the Corporation and by any calculation agent to review the calculation of all such periodic adjustments. The Government Development Bank or its successor, as fiscal agent of the Commonwealth of Puerto Rico, is hereby authorized and directed to assist and provide support and financial advice to the Corporation, so that the purposes of this Act may be achieved diligently, effectively, and in accordance with the provisions of this Act.

#### Section 7.- Bonds.

(a) Authorization to Issue Bonds; Revitalization Charges. The Corporation is hereby authorized to from time to time, without review or approval by any other

government entity, except as provided in this statute, to issue Bonds up to the maximum amount of nine hundred (900) million dollars to fund the development of the Authority's Capital Improvement Program, as provided in paragraphs (a), (b), (c), (e), (f), (g) and (h) of subsection (15) of Section 3 of this Act. The difference between the nine hundred (900) million dollars of the Capital Improvement Program and the maximum that can be financed with the twenty (20) percent of the charges billed by the Authority as provided in subparagraph (xvi) of Section 6, may be used to finance other Approved Financing Costs as provided in paragraph (d) of subsection (15) of Section 3 of this Act, in accordance with the provisions of the authorized Financing Resolution that has been subject to final approval under the provisions of this Section. In addition, in order to retire, cancel (defease) or refinance all or part of the debt issued by the Authority, it shall satisfy the conditions, if any, therefor set forth in any then existing Trust Agreement, as well as the following conditions:

(1) The value at which bonds may be redeemed, cancelled (defeased,) or refinanced shall not exceed eighty-five percent (85%) of its nominal or face value;

(2) the Bonds to be issued for redemption, cancellation (defeasance), or refinancing shall not require the payment of principal for at least the first five (5) years from the date on which they were issued; and

(3) The interest rate of the Bonds to be issued varies according to the rating given to such Bonds, consistent with the following table:

<i>Interest Rate</i>	<p>For Current Interest Bond Payments:</p> <ul style="list-style-type: none"> <li>the weighted average interest rate across maturity (based on the yield curve) shall be set at specified rates, subject to a final investment grade rating as follows:</li> </ul> <table data-bbox="451 611 906 898"> <tr> <td>AAA:</td> <td>4.00%</td> </tr> <tr> <td>AA+/AA/AA-:</td> <td>4.25%</td> </tr> <tr> <td>A+/A/A-:</td> <td>4.50%</td> </tr> <tr> <td>BBB+/BBB/BBB- or less:</td> <td>4.75%</td> </tr> </table>	AAA:	4.00%	AA+/AA/AA-:	4.25%	A+/A/A-:	4.50%	BBB+/BBB/BBB- or less:	4.75%	<p>For Convertible Capital Appreciation Bonds:</p> <ul style="list-style-type: none"> <li>the weighted average interest rate/appreciation across maturity (based on the yield curve) be set at specified rates, subject to final investment grade rating as follows:</li> </ul> <table data-bbox="964 611 1419 898"> <tr> <td>AAA:</td> <td>4.50%</td> </tr> <tr> <td>AA+/AA/AA-:</td> <td>4.75%</td> </tr> <tr> <td>A+/A/A-:</td> <td>5.25%</td> </tr> <tr> <td>BBB+/BBB/BBB- or less:</td> <td>5.50%</td> </tr> </table>	AAA:	4.50%	AA+/AA/AA-:	4.75%	A+/A/A-:	5.25%	BBB+/BBB/BBB- or less:	5.50%
AAA:	4.00%																	
AA+/AA/AA-:	4.25%																	
A+/A/A-:	4.50%																	
BBB+/BBB/BBB- or less:	4.75%																	
AAA:	4.50%																	
AA+/AA/AA-:	4.75%																	
A+/A/A-:	5.25%																	
BBB+/BBB/BBB- or less:	5.50%																	

Bond issues made by the Corporation shall be coordinated with PRFAFAA for the purpose of avoiding conflicts with other bond issues of the Commonwealth of Puerto Rico or its instrumentalities. In exercising this power, PRFAFAA shall act with reasonable promptness and ensure that any bond issue of the Corporation is not unreasonably delayed.

The authorization to issue Bonds shall be subject to the conditions established in the corresponding Financing Resolution that has the final approval of PRFAFAA, in accordance with the provisions of this Section.

The maximum sum or amount of Bonds to be issued, up to nine hundred (900) million dollars, shall include every interim financing issued or incurred by the Authority in anticipation of the issuance of Bonds or Bond Anticipation Notes (BANs) duly authorized in accordance with the provisions of this Act. Once the maximum sum or amount of Bonds to be issued has been exhausted, the Corporation and the Authority shall appear before the Legislative Assembly in order to inform

the latter on the uses given to the Bonds so issued, as well as on additional financing needs that the Authority may have, and if necessary, to request a new authorization to increase the maximum amount or number of Bonds to be issued under this Act.

(b) Approval Process.

(1) Notwithstanding any other provision of law to the contrary, on or before sixty (60) days after the date of approval of this Act, the Corporation shall have submitted a Financing Resolution to the PRFAFAA for final approval. On or before the first fifteen (15) days of this term, the Corporation, in collaboration with the Authority and the financial advice of the PRFAFAA shall prepare and complete a proposed Financing Resolution which shall include the content required in accordance with this Act. Moreover, it shall prepare during said term a detailed explanatory report of the grounds or circumstances that led to its decision, which report shall meet the criteria and principles to determine and allocate the Revitalization Charges among the Customer class and to fix and adjust the Revitalization Charges that are mentioned hereafter. This proposed Financing Resolution shall be submitted to a public hearing and initial approval process provided in paragraph (4) of this subsection (b).

During the drafting period, the Corporation shall provide relevant information to PRFAFAA so that the latter is informed of the elements considered by the Corporation to establish the Revitalization Charges. In turn, PRFAFAA shall participate in the drafting process of the proposed Financing Resolution for the purpose of being informed of the details related to the drafting process and supporting criteria of the proposed Financing Resolution, as well as submitting specific recommendations on issues or aspects that shall be addressed or included in said document as part of the processes for its initial approval.



In order to determine and allocate the Revitalization Charges among Customer classes and to fix and adjust the Revitalization Charges to be included in the proposed Financing Resolution the following criteria shall be met:

(A) The portion of the Financing Costs to be recovered from each Customer class shall be calculated based on the water and/or sewer consumption history for each Customer class, as such information is provided by the Authority, and as the Corporation determines, in a manner that is not arbitrary or capricious, that it may be best administered and would ensure full and timely payment of the Bonds, in accordance with the terms thereof, and other Ongoing Financing Costs;

(B) Once the Financing Costs to be recovered from each Customer class are allocated, (i) the Revitalization Charges for Customers (other than residential Customers) shall be based on the water and/or sewer consumption history, and (ii) the Revitalization Charges for all residential customers shall be charged per Customer (per capita), based on the water and/or sewer consumption history, as such information is provided by the Authority, and as the Corporation determines, in a manner that is not arbitrary or capricious, that it may be best administered and would ensure full and timely payment of the Bonds, in accordance with the terms thereof, and other Ongoing Financing Costs;

(C) Delinquency of any class of Customers shall be added to the revenue requirement for the next periods and shall be allocated among all Customer classes, as provided in subparagraphs (A) and (B) of this paragraph. Likewise, any excess or surplus over the revenue estimate as a result of the prompt payment of any Customer class shall be allocated and distributed among all Customer classes for the next period or cycle of the Charge.

(2) The report or the proposed Financing Resolution shall also include:

(A) A description of the Ongoing Financing Costs;

(B) The determination of Customer classes among which the Ongoing Financing Costs shall be allocated and the allocation of the Ongoing Financing Costs among Customer classes;

(C) The calculation of Revitalization Charges for Customers, by class;

(D) A provision that delinquencies of any Customer class shall be allocated among all Customer classes as provided in subparagraph (B), (C), and (D) of this paragraph and shall be included in the Adjustment Mechanism. Likewise, any excess or surplus over the revenue estimate as a result of the prompt payment of any Customer class shall be allocated and distributed among all Customer classes for the next period or cycle of the Charge.

(E) The Corporation's determination on the following:

(i) The allocations of subparagraphs (B), (C), and (D) of this paragraph (2) are practical to administer and ensure full and timely payment of the Ongoing Financing Costs, during the effective term of the Bonds;

(ii) The consumption history data of each Customer class that serves as the basis for the allocations set forth in subparagraphs (B), (C), and (D) of this paragraph (2) certified by an Authority's officer.

(iii) That the proposed Financing Resolution meets the requirements established in subsections (b)(1) and (b)(2) of this Section 7 and other applicable requirements established in this Act.

(3) Such report and proposed Financing Resolution shall be the basis to initiate the process described below in paragraphs (4) and (5) and, upon conclusion and determination of the Board of the Corporation, the Financing Resolution shall be deemed to be initially approved. The Financing Resolution thus approved within a term not to exceed one hundred (100) days from the approval of this Act shall be forwarded to PRFAFAA for review and final approval or

recommendation for modification in accordance with the provisions of paragraph (4) of subsection (b) of this Section. Once approved by PRFAFAA, the Financing Resolution shall be deemed to have the final approval for the commencement of the subsequent procedures, as required by this Act.

(4) The public hearing and initial approval processes by the Corporation shall be as follows:

(A) The Authority and the Corporation shall publish on their websites, the proposed Financing Resolution on or before fifteen (15) days following the date of approval of the Act, and the related report approved by the Corporation together with the notice of the holding of one or more public hearings at least ten (10) days prior to holding of such hearing, which notice shall include the matters to be discussed in the hearing, the place, date and time where the hearing or hearings are to be held. The notice shall also comply with the following: (i) said notice shall be published in two (2) newspapers of general circulation in the Commonwealth of Puerto Rico at least twice (2) during such ten (10)-day period, (ii) a copy of said notice shall be exhibited during such ten (10)-day period in the main offices of the Corporation and of the Authority, as well as in the commercial offices of the Authority, in a conspicuous place accessible to the public during regular business hours, and (iii) a copy of such notice along with copies of the form of the Corporation's initial Financing Resolution, the report, and all supporting documents thereof required to be filed along with the request shall be posted on the websites of the Authority, the Corporation, and the Government Development Bank for Puerto Rico, safeguarding any confidential or privileged information included therein, if any. The hearing or hearings shall be held to gather the general opinions of the citizens on the compliance with the methodology for calculating the Corporation's Revitalization Charges and Adjustment Mechanism with the established criteria. At least five (5) public hearings shall be held in accessible locations that promote the

most comprehensive and effective citizen participation. The Corporation shall appoint an independent hearing officer to preside over the public hearing or hearings.

(B) The hearing officer for this special proceeding shall be granted a term not greater than twenty (20) days after the conclusion of the last public hearing to file a report with the Corporation which shall include an account of all objections, positions, opinions, documents, studies, recommendations and any other pertinent information furnished at the hearings, as well as his conclusions and recommendations, and a brief account of how the objections, proposals, opinions and recommendations furnished were addressed. The report shall be published on the websites of the Corporation, the Government Development Bank, and the Authority within forty-eight (48) hours after the filing thereof.

(C) The Corporation shall review the report of the hearing officer and any comments received on the report, and shall issue a resolution regarding the Financing Resolution, including the approval or revision of the methodology for calculating the Corporation's Revitalization Charges and Adjustment Mechanism, which initial approval shall be published on the websites of the Corporation, the Authority, and the Government Development Bank together with an explanatory report on its determination regarding the suggestions and/or recommendations of the hearing officer.

(5) The Financing Resolution initially approved by the Corporation shall be forwarded to PRFAFAA for review and final approval or recommendation of modifications. The PRFAFAA shall review and submit its determination of final approval or rejection together with its recommendations for modifications to the Resolution, in a term not to exceed ten (10) days as of the filing of the request for authorization by the Corporation of the initially approved Financing Resolution. In the event that the PRFAFAA does not recommend the approval of the Financing Resolution, the Corporation shall have ten (10) days from PRFAFAA's notice to

address the recommended modifications. Once the Corporation submits the Financing Resolution duly modified, PRFAFAA shall have ten (10) days from the receipt of the document to issue its final determination. In the discharge of its duties and responsibilities of reviewing the Financing Resolution, PRFAFAA may seek the collaboration and assistance of other government agencies or advisors with the required knowledge and expertise, including the Energy Commission created under Act No. 57-2014, as amended.

(A) In its assessment, the PRFAFAA shall consider the following factors:

(i) That the Financing Resolution fully meets the requirements of this Act.

(ii) That the criteria and principles for determining and allocating the Revitalization Charges among Customer classes, as well as fixing and adjusting Revitalization Charges, according to the provisions of this Act were fully met.

(iii) That the determination of the Revitalization Charges and adjustment mechanism of such Charges was not adopted in an arbitrary or capricious manner, and that they are fair and reasonable when compared to the parameters used by public utilities in other jurisdictions of the United States of America that have used similar financing mechanisms.

(iv) That the notice and public hearing process established in this Act was thoroughly complied with, and that the objections, proposals, opinions, and recommendations presented were duly considered.

(v) That the proposed bond issue shall further the goals and objectives of the Capital Improvement Program of the Aqueduct and Sewer Authority and that such works are necessary for the economic development and welfare of the Island.

(B) The PRFAFAA may invoice and charge the Corporation or the Authority, and the latter may, in turn, bill the Corporation, for the procedures related to the Financing Resolution verification and review process up to a maximum of two hundred thousand dollars (\$200,000). In order to streamline process of hiring experts and adequate resources for the verification and review of the Financing Resolution, the PRFAFAA may require the Authority or the Corporation to advance the necessary funds for such purposes.

(C) The PRFAFAA shall adopt the rules and regulations that may be necessary to govern the review process, without being subject to the provisions of Act. No. 170 of August 12, 1988, as amended, known as “Uniform Administrative Procedure Act.”

(6) Any court proceedings challenging a final Financing Resolution or the findings and determinations stated therein, including the methodology for calculating the Revitalization Charges and Adjustment Mechanism, shall only be brought in accordance with the procedures set forth in subsection (c) of this Section 7, and the Court shall review such findings and determinations on the basis of whether the Corporation acted in an arbitrary and capricious manner.

(7) The provisions of the Uniform Administrative Procedures Act, Act No. 170 of August 12, 1988, as amended, shall not apply to the processes outlined in Section 7 (b).

(8) Prior to any issue of a public debt of the Corporation, the Corporation shall notify PRFAFAA about any proposed issue within at least ten (10) days prior to the date of publication of the preliminary official statement (POS). PRFAFAA shall evaluate and approve the issue. Such approval shall be issued in writing no later than ten (10) days from the Corporation’s notification to PRFAFAA of the proposed issue. If such period has elapsed and PRFAFAA has failed to notify its approval or rejection to the proposed issue, the Corporation may continue with

the bond issue process. The Legislative Assembly believes that PRFAFAA should not approve the proposed issue, if it determines that the average amount to be paid by the Customers of the Authority and the Corporation, along with and at the time of issue, would be greater than the average billing to the Authority's Customers prior to the issue of securitization bonds. Provided, that for these purposes the Authority may grant credits or use other mechanisms that it deems appropriate.

(c) Validation of this Act, Final Financing Resolution and Initial Bond Issue.

(1) After final approval of the Financing Resolution and before the award of the initial Bond issue, the Corporation or PRFAFAA shall publish a notice in the manner provided in paragraph (2) of this subsection (c) notifying the Interested Parties that they shall have a statute of repose of sixty (60) days after the publication of the notice as provided in Section (7)(c)(2) to bring an action before the San Juan Part of the Court of First Instance of the Commonwealth of Puerto Rico (the "Court"), to determine, among other things:

(A) The validity of this Act;

(B) That any provision of this Act, including the imposition of Revitalization Charges, neither results in the breach or impairment of any contract or agreement executed between the Commonwealth of Puerto Rico or the Authority and the holders of the Bonds or other creditors of the Authority, nor in the taking of property by the Commonwealth of Puerto Rico without just compensation;

(C) That the money to be received from Revitalization Charges by or on behalf of the Corporation or any Servicer constitute revenues and income of the Corporation and not of the Authority or any other Person, and shall not constitute available resources of the Commonwealth of Puerto Rico; and that Revitalization Charge shall constitute a tax or levy, and that the right of the Corporation to impose and collect Revitalization Charges may not be revoked or terminated;

(D) That the Revitalization Charge Revenues are not subject to any lien or charge whatsoever by holders of the Bonds or other creditors of the Authority or any other Person other than the lien or levy of the applicable Trust Agreement to be entered into in connection with the issuance of the applicable Bonds;

(E) That neither the issuance of the Bonds nor the amount of the Revitalization Charge results in the breach of any contract or agreement executed between the Commonwealth of Puerto Rico or the Authority and the bondholders or other creditors of the Authority, any fraudulent conveyance or any taking of property by the Commonwealth of Puerto Rico without just compensation or is otherwise subject to annulment or rescission; and

(F) Any matters relating to the foregoing including those pertaining to the Constitution of the United States or of the Commonwealth of Puerto Rico.

(G) The validity of the Financing Resolution and approval of the Bonds by the Corporation, including provisions for the payment of such Bonds, the validity of such Bonds, the creation of Financing Property, and the validity of the formula or formulas used to establish the amount of such Revitalization Charges for each Customer class, including the allocation of Financing Costs among Customer classes and all procedures of the Corporation related thereto; and

(H) That the validity and applicability of the Revitalization Charges and the Adjustment Mechanism and the right of the Corporation to impose and collect Revitalization Charges may not be revoked or terminated.

For purposes of subparagraphs (G) and (H) above, as provided in Section 7(b)(5), any legal proceedings challenging the matters covered by these provisions shall be submitted under the procedures established in subsection (c) of Section 7.



For the purposes of this Section, the Bonds and Revitalization Charges shall be considered as existing from the time of their authorization, and the Bonds and Revitalization Charges shall be understood to be authorized from the date on which the Financing Resolution is validated by the PRFAFAA by means of the approval of said final Resolution.

(2) The Corporation or the PRFAFAA, acting on behalf of the Corporation, shall notify all Interested Persons of the opportunity to challenge their validity of the Act, its implementation, the final Financing Resolution, or any other matter to be determined, through a notice for such purposes to be published once (1) a week for three (3) consecutive weeks in a newspaper of general circulation in the Commonwealth of Puerto Rico and in a newspaper of general circulation or a financial journal published or circulated in the City of New York. In addition, (i) the Corporation, the PRFAFAA and the Authority shall post a copy of the notice on their websites not later than five (5) days after the first publication thereof; (ii) the Corporation or the PRFAFAA acting on behalf of the Corporation shall (A) deliver, or cause to be delivered, a copy of the notice to those Interested Persons (to the extent known by the Corporation or the PRFAFAA) listed in paragraphs (a) through (e) of the definition of “Interested Person” provided in Section 3 this Act, and (B) file or cause the Authority to file a copy of the notice with the Electronic Municipal Market Access maintained by the Municipal Securities Rulemaking Board (or its equivalent); (iii) the Authority shall deliver a copy of the Corporation’s notice referred to above to all Customers by means of (A) a direct mailing of such notice to such Customers not later than ten (10) days after the first publication of the notice in a newspaper of general circulation in the Commonwealth of Puerto Rico and in a newspaper of general circulation or a financial journal published or circulated in the City of New York, or (B) an insert included in the next billing statement sent by the Authority to its customers after the first of such publication is made and to all

Interested Persons listed in paragraph (g) of said definition; and (iv) not later than fifteen (15) days after the first such publication, the Corporation or the Authority shall deliver a copy of the notice to any Interested Person listed in paragraph (h) of the definition of ‘Interested Person,’ and, to the extent known by the Authority, in paragraph (i) of the definition of such term provided in Section 3 of this Act.

(3) Upon the first publication of the notice in a newspaper of general circulation in the Commonwealth of Puerto Rico and in a newspaper of general circulation or a financial journal published or circulated in the City of New York, all Interested Persons shall be deemed to know or have reason to know of the approval of this Act and of the Financing Resolution, and of any alleged injuries or claims related to this Act or the implementation thereof, the final Financing Resolution, or the issuance of the Bonds and any related matter. A sixty (60)-day statute of repose to challenge this Act and the Final Financing Resolution as set forth in paragraph (2) of this subsection (c) shall begin on the date of the first publication of the notice in a newspaper of general circulation in the Commonwealth of Puerto Rico and in a newspaper of general circulation or a financial journal published or circulated in the City of New York (and if not first published on the same date, the later date of the two publication dates shall be used for this purpose). The notice shall provide a detailed summary of the matter the Corporation seeks to validate. The notice shall be substantially similar to the following:

Notice of Enactment of the Puerto Rico Aqueduct and Sewer Authority Revitalization Act Final Financing Resolution and Authorization to Issue Bonds

On [insert date], Act No. \_\_\_ approved on \_\_\_\_\_, 2016 took effect (hereinafter the “Act”). On [ ] Resolution number [ ] was adopted authorizing the issuance by the Puerto Rico Aqueduct and Sewer Authority Revitalization Corporation (the “Corporation”) of [\_\_] bonds in an amount of up to [\$ ]. In relation to such issuance, under the terms of the Financing Resolution, and pursuant to the authority granted

to the Corporation under the Act, the Corporation shall impose a Revitalization Charge in the amount of [ ] to the Customers of the Puerto Rico Aqueduct and Sewer Authority which shall take effect immediately after the bonds are issued. Any interested party may, on or before [ ] [not later than [sixty (60)] days after the first publication of notice], appear and contest before the Court of First Instance, San Juan Part, the legality or validity of this Act, of the Final Financing Resolution, of the Revitalization Charges, the Bonds, any matter sought to be determined or any matter related thereto. No court shall have jurisdiction over any action related to the aforementioned Act, the Final Financing Resolution, of the Revitalization Charges, the Bonds, or any matter sought to be determined, if such action is filed after the specified date. No contest, except by the Corporation, of any issue or matter under the aforementioned Act, the Final Financing Resolution, of the Revitalization Charges, the Bonds, or any matter sought to be determined shall be made other than within the time and the manner herein specified.

[Detailed summary; additional information\_\_\_\_\_]

#### Puerto Rico Aqueduct and Sewer Authority Revitalization Corporation

(4) Only the Court shall have jurisdiction over any action related to the matters addressed in this subsection (c), and only if such action or contest is timely filed within the sixty (60)-day statute of repose. Any Interested Person may, within said sixty (60)-day period, appear and contest the legality or validity of any matter sought to be determined. No other court shall have jurisdiction over any action related to any of the matters addressed in this subsection (c). The Court shall lack jurisdiction if such action is filed after such sixty (60)-day period.

(5) Consolidation of Actions: Liberal joinder and cross-claim rules. If more than one action is pending concerning similar contests that may be brought under this subsection, such actions shall be consolidated and the Court may issue such order as may be necessary or proper to effect the consolidation as may tend to

avoid unnecessary costs or delays. Such orders shall not be appealable to or reviewable by any court, except on appeal of the final judgment as provided in paragraph (7) of this subsection (c). Actions brought pursuant to this subsection (c) shall be entitled to liberal joinder and cross-claim rules and given preference over all other civil actions before the Court in the matter of setting the same for motions, pleadings, hearing, or trial, and in order for the actions brought in accordance with the provisions of this subsection (c) to be speedily heard and determined.

(6) No contest except by the Corporation to any issue or matter under this subsection (c) shall be made other than within the time and the manner specified in this subsection (c). Nothing in subsection (c) shall preclude the use by the Corporation of any other remedy to determine the validity of any other issue or matter.

(7) An appeal from the final judgment of the Court may only be taken directly to the Supreme Court of Puerto Rico, in the manner described in subsection (e) (2).

(d) Actions to be Consolidated; Liberal Joinder and Cross-claim Rules, etc. If more than one action is pending concerning similar contests which may be brought under this Act, they shall to the extent practicable be consolidated for trial, and the court may make such orders as may be necessary or proper to effect consolidation and as may tend to avoid unnecessary costs or delays. Such orders shall not be appealable to or reviewable by any court, except that they may be questioned on appeal of the final judgment as prescribed in this Section 7. Actions brought pursuant to this Act shall be entitled to liberal joinder and cross-claim rules and given preference over all other civil actions before the court in the matter of setting the same for motions, pleadings, hearing or trial, and in hearing the same, to the end that such actions shall be speedily heard and determined.

(e) Nature of Judgment; Appeals.

(1) Any final judgment of the Court entered pursuant to this Act, if no appeal is taken, or if taken and the final judgment is affirmed, shall notwithstanding any other provision of law thereupon become and thereafter be forever binding and conclusive, as to all matters therein adjudicated or which at that time could have been adjudicated, against the Corporation and against all other Persons, including the Commonwealth of Puerto Rico, the Servicer, and the Authority and the final and binding judgment shall permanently prevent any Person from bringing any action or proceeding related to any issue as to which the judgment is binding and conclusive. Furthermore, in the case of any final and binding judgment issued pursuant to subsection (c) of this Section, it shall be irrefutably presumed that the approval for the issuance of Bonds has been duly adopted by the Corporation pursuant to this Act and any other applicable law. Following any final and binding judgment entered pursuant to subsections (b) or (c) of Section 7, the validity of this Act, the approval of the Final Financing Resolution and the aforementioned Bond issue or any of the provisions of this Chapter, including the provisions for and the payment of the Bonds to which such approval relates wherever contained, and the validity of said Bonds authorized thereby, shall not be questioned by any Person, regardless of any provision to the contrary in this Act or any other Act or regulation, and no action, suit, or proceeding questioning any issue which was litigated or which could have been litigated, including, the validity of the outstanding debt of the Authority that is refinanced, retired, or cancelled (defeased) through such Bonds, whether the money received by or on behalf of the Corporation or any Servicer constitutes revenue or income of the Corporation or of the Authority or constitutes available resources of the Commonwealth of Puerto Rico, or constitute a tax or levy, or whether the imposition or collection of the Revitalization Charges may be revoked or rescinded or whether the Revitalization Charge Revenues are

subject to any lien or charge from the holders of the Bonds or other creditors of the Authority, or whether the approval of this Act or the issuance of the Bonds results in the breach of any contract or covenant made by the Commonwealth of Puerto Rico and the holders of the Bonds or other creditors of the Authority, or in any taking of property by the Commonwealth of Puerto Rico without just compensation, or in any fraudulent conveyance, or is otherwise subject to avoidance or rescission or any other constitutional matter of United States of America or of the Commonwealth of Puerto Rico whether or not related to the foregoing, shall thereafter be heard by any court.

(2) Notwithstanding any other provision of law to the contrary and any rule or regulation of courts, no appeal shall be allowed from any judgment entered pursuant to this Act unless it is filed with the Supreme Court of Puerto Rico within thirty (30) days after the notice of entry of the judgment of the Court, and failure to file such appeal within the specified period shall thereafter bar any appeals court from exercising jurisdiction over the matters which could have been so appealed.

(f) Agreement to Issue Bonds. The Corporation may issue Bonds, in one or more series, pursuant to an agreement to issue [sic] in accordance with the approved Financing Resolution. Bonds may be sold for cash or delivered to any person for such consideration as the Board of the Corporation may deem adequate. Not later than the third business day after the pricing of said Bonds in accordance with any such agreement, the Corporation shall direct the Servicer to calculate, and cause any calculation agent hired by the Corporation to verify the calculation of the initial Revitalization Charges, which shall be effective from the date specified in the Financing Resolution, without any further action by the Corporation, or any other person.

(g) Irrevocability. Upon the issuance of the Bonds, the Financing Resolution corresponding thereto, the related Revitalization Charges, including their mandatory nature and Non-bypassability, and the procedures for the applicable Adjustment Mechanism, as provided in a Financing Resolution, Trust Agreement, or other security document related thereto, shall be irrevocable, Non-bypassable, final, non-discretionary, and effective without further action by the Corporation or any other Person.

(h) Revitalization Charges Mandatory and Non-bypassable; Payment to Depository. As long as the Bonds are outstanding, and the Approved Restructuring [sic] Costs have not been paid in full (including any payments that have or may become due under Ancillary Agreements), the Revitalization Charges authorized and imposed by this Act shall be Non-bypassable and mandatory and shall apply to all Customers.

Without limiting any authority elsewhere conferred, the Authority is hereby authorized to enter into a Servicing Agreement and discharge such duties of the Servicer as may be required or permitted by this Act, to provide further assurances to the Corporation, other Financing Entities or the owner (if different) of all or a portion of the Financing Property with respect to the Financing Property and the collection of the Revitalization Charges, and to take any actions as are necessary or desirable to achieve the purposes of this Act. The Authority, at the request of the Servicer, shall interrupt or suspend the service to delinquent Customers on the same basis that the Authority is allowed to interrupt or suspend service for nonpayment of water and/or sewer service or other rates. Neither the Corporation, other holder of the Financing Property, or the Trustee may directly suspend or interrupt water and/or sewer service to any Customer.

The Corporation, the Authority, and the Servicer (if different from the Authority) shall have the following duties:

- (i) To impose and adjust, bill and collect any Revitalization Charges applicable to all Customers, and shall include in each such bill the applicable Revitalization Charge as a separate line item;
- (ii) To allocate Customers' partial payments on a pro rata basis between the Corporation and the Authority as provided in paragraph (k)(1) of this subsection;
- (iii) To take all other actions permitted by law to collect unpaid bills;
- (iv) To exercise all collection enforcement rights of the holder or pledgee of the Financing Property for the benefit of such holder or pledgee; and
- (v) To remit any Revitalization Charge Revenue to the holder or pledgee of the Financing Property.

The corresponding Trust Agreement may provide that the calculation of all Revitalization Charges and adjustments thereto shall be confirmed by a third-party calculation agent unrelated to the Government of Puerto Rico or the Authority (which may be the Servicer if the Authority is no longer the Servicer) designated by the Corporation or the Trustee.

The Servicer shall, except as otherwise specified in a Financing Resolution, be entitled to reasonable compensation, which in the case of the Authority shall not be less than the estimated incremental cost of imposing and billing the Revitalization Charges and collecting the Revitalization Charge Revenues, preparing servicing reports, and performing customary servicing services required by any Servicing Agreement in connection with the Bonds. The Corporation (or the Trustee in accordance with the terms of the applicable Trust Agreement) shall be authorized to replace the Servicer in the event of default.

As soon as possible after receipt thereof, all Revitalization Charge Revenues and the Authority's charges shall be paid or deposited in a special collection account with a bank incorporated under and subject to the laws of the United States of



America or any state thereof, (and licensed to operate in the Commonwealth of Puerto Rico), selected by the Corporation and not related to the Authority or the Commonwealth of Puerto Rico, or under the control of the Authority. Such amounts shall be allocated and remitted to the Corporation or its assignees or creditors and to the Authority or its assignees or creditors on a daily basis in accordance with their respective interests. Any Servicing Agreement and depository agreement shall include the foregoing deposit and allocation requirements.

Under no circumstances shall any Revitalization Charges imposed or Financing Property created by the Corporation to secure any Bonds shall be or be deemed to be collected on account of taxes, be or be deemed to be for any purpose revenues of the Authority or the Commonwealth of Puerto Rico, or be deemed to be for any purpose received as a result of the Authority's ownership or operation of the System Assets, nor shall any Bonds be or be deemed to be a debt or other obligation of the Authority or the Commonwealth of Puerto Rico or any of its political subdivisions. The Authority shall, in servicing and collecting any Revitalization Charges, be deemed to be acting solely as an agent of the Corporation and not as principal, and shall only receive such Charges to be held in trust for the exclusive benefit of the Corporation, the holders of the Bonds, and Persons entitled to receive payment therefrom for any Financing Costs (such Revitalization Charges shall not lose their character as Revitalization Charges by virtue of any possession by the Authority) and the Authority shall immediately transfer any such Revitalization Charges received to the special collection account referred to in the first sentence of the preceding paragraph.

(i) Financing Property.

(1) Financing Property shall constitute an existing, present, and continuing property right for all purposes, including agreements securing the Bonds, whether or not the revenues and proceeds arising with respect thereto have been

earned, and notwithstanding the fact that the imposition and collection of Revitalization Charges shall depend on further acts that have not yet occurred, including: (a) the rendering of services by the Authority, (b) a Servicer performing servicing functions related to the billing and collection of Revitalization Charges, and (c) the level of future consumption (or non-consumption) of such services. Financing Property shall exist whether or not Revitalization Charges have been imposed, billed, earned, or collected and notwithstanding the fact that the value or amount of the Financing Property is dependent on the future provision of services to Customers. Subject to applicable law and regulations, the timely payment of all Revitalization Charges shall be a condition to receive service from the Authority.

(2) All Financing Property shall continue to exist until the corresponding Bonds and all Ongoing Financing Costs related to the Bonds have been fully paid.

(3) If the Servicer fails to fulfill the obligations provided in this Act or in any agreement related to the remittance of Revitalization Charge Revenues, the Corporation, the Trustee, or the owners or pledgees of the Financing Property may request any court to order the sequestration and payment of the Revitalization Charge Revenues, or any other applicable remedy. If the Court determines that such noncompliance occurred, it shall grant such request for sequestration and payment. The order shall remain in full force and effect notwithstanding any bankruptcy, reorganization, or other insolvency proceedings with respect to a Servicer, the Corporation, the Authority or any other Person.

(j) No Set-off Regarding Financing Property, and others; Statutory Lien.

(1) Financing Property, Revitalization Charges, Revitalization Charge Revenues, and the interests of a holder of Bonds, Financing Entity, or any other Person in Financing Property or in Revitalization Charge Revenues shall not be subject to set-off, counterclaim, surcharge, or defense by a Servicer, Customer, the

Corporation, the Authority, holders of any other debt issued by the Authority (or any other creditors of the Authority) or any other Person, or in connection with any default, bankruptcy, reorganization or other insolvency proceeding of any of said persons. To the extent that a Customer makes a partial payment of a bill including both Revitalization Charges and any other charges, for purposes of its allocation, such payment shall be allocated on a pro rata basis between the Revitalization Charges and the other charges.

(2) Bonds and obligations of the Corporation under Ancillary Agreements shall be secured by a statutory lien on the Financing Property in favor of the holders or beneficial owners of Bonds and parties to such Ancillary Agreements. The lien shall be automatically constituted upon issuance of the applicable Bonds without the need for any action or authorization by the Corporation or the Board. The lien shall be valid and binding from the time the Bonds or Ancillary Agreements, as applicable, are executed. The Financing Property shall be immediately subject to the lien, and the lien shall immediately attach to the Financing Property and shall be effective, binding, and enforceable against the Authority, its creditors and their successors, transferees, and creditors, and all others asserting rights therein, irrespective of whether those Persons have notice of the lien and without the need for any physical delivery, recordation, filing, or further action. The lien is created by this Act and not by any security agreement or issuance, but may be enforceable by a Trustee or other fiduciary for the holders or beneficial owners of Bonds.

This statutory lien shall be deemed to be a continuously perfected security interest and shall have priority over any other lien, created by operation of law or otherwise, that may subsequently attach to that Financing Property or any proceeds thereof, unless the holders or beneficial owners of Bonds have agreed otherwise in writing as specified in the applicable Trust Agreement. This statutory lien is a lien

on Revitalization Charges and all Revitalization Charge Revenues that are deposited in any deposit account or other type of account of the Servicer or other Person where Revitalization Charge Revenues or other proceeds have been commingled with other funds. Without limiting the effectiveness of the statutory lien created by this Act, any other lien that may apply to the Revitalization Charge Revenues or other proceeds shall be terminated when such revenues or proceeds are transferred to a segregated account for an assignee or a Financing Entity. No application of the Adjustment Mechanism shall affect the validity, perfection, or priority of the statutory lien created by this Act. Any Revitalization Charge Revenues commingled with other funds subject to any lien shall be administered in a manner that allows for the identification of the Revitalization Charge Revenues and such other funds.

(3) The statutory lien shall not be adversely affected or impair by, among other things, the commingling of Revitalization Charge Revenues or other proceeds from Revitalization Charges with other amounts regardless of the Person holding such amounts. Any Revitalization Charge Revenues commingled with other funds subject to any lien shall be administered in a manner that allows for the identification of the Revitalization Charge Revenues and such other funds.

(k) Successors Bound. The Authority, any successor or assignee of the Authority or any other Person with any operational control of any portion of the System Assets, whether as owner, lessee, franchisee, or otherwise, and any successor Servicer shall be bound by the requirements of this Act and shall meet and satisfy all obligations imposed herein in the same manner and to the same extent as their predecessor, including the obligation to bill, adjust, and demand the payment of Revitalization Charges.

(l) Authorization to Pledge Financing Property. All or any portion of Financing Property may be pledged to secure the payment of Bonds, the amounts payable to Financing Entities, and other Ongoing Financing Costs. So long as the

Financing Property remains pledged to secure any such payments, the revenues from the collection of Revitalization Charges shall be applied solely to the payment of Ongoing Financing Costs.

(m) Legality for Investment. Bonds are hereby made securities in which all public officials and agencies of the Commonwealth of Puerto Rico and all public corporations, municipalities, municipal subdivisions, all insurance companies and associations and other Persons engaged in the insurance business, all banks, bankers, third party asset managers, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other Persons engaged in the banking business, all administrators, conservators, guardians, executors, trustees, and other fiduciaries, and all other Persons now or hereafter authorized to invest in bonds or in other obligations of the Commonwealth of Puerto Rico, may properly and legally invest funds, including capital, in their control or belonging to them and the Bonds may be deposited with and may be received by any public official and entities of the Commonwealth of Puerto Rico and all municipalities and public corporations for any purpose for which the deposit of Bonds or other obligations of the Commonwealth of Puerto Rico is now or may hereafter be authorized.

(n) Tax Exemption.

(1) This Act and the effects of its enforcement are in all respects for the benefit of the people of the Commonwealth of Puerto Rico and for a public purpose. Accordingly, the Corporation shall be regarded as performing an essential government function in the exercise of the powers conferred thereupon by this Act and shall not be required to pay, and the Financing Property, including Revitalization Charges and Revitalization Charge Revenues, regardless of whether the Corporation is the owner of the Financing Property, shall not be subject to any fees, taxes, special ad valorem levies, or assessments of any kind, including income

taxes, franchise taxes, sales taxes, or other taxes, or payments or contributions in lieu of taxes.

(2) The Commonwealth of Puerto Rico hereby covenants with the purchasers and with all subsequent holders and transferees of Bonds, in consideration of the acceptance of and payment of the Bonds, that the Bonds and the income therefrom and all revenues, money, and other property pledged to pay or to secure the payment of such Bonds, shall be exempt from taxation at all times; and this covenant may be included in the Bonds.

(o) Bonds Negotiable Instruments. Whether or not the Bonds are of such form and character as to be negotiable instruments in accordance with the “Puerto Rico Commercial Transactions Act,” the Bonds, by virtue of this Act shall be deemed to be negotiable instruments within the meaning and for all purposes of the ‘Commercial Transactions Act’ and of any other applicable laws of the Commonwealth of Puerto Rico, subject only to the provisions of the Bonds for registration.

(p) No Personal or Corporate Liability on Bonds. Without impairment to any rights granted under the provisions of Act No. 104 of June 29, 1955, as amended, known as the “Act on Claims and Suits Against the Commonwealth,” no present or future member of the Board, official, agent, or employee of the Corporation shall be held liable for any action taken in good faith in the discharge of his duties and responsibilities under this Act; unless it is established, that he engaged in conduct constituting an offense, and shall be indemnified for any costs incurred in connection with any claim for which they enjoy immunity as provided herein. The Board and its individual directors, and the officials, agents, or employees of the Corporation shall also be indemnified for any civil liability adjudicated under the laws of the United States of America, unless it is established that he/she engaged in conduct constituting an offense, breach of fiduciary duty, or gross negligence. However,

nothing provided in this Chapter I will release the Authority or any of its agents or representatives or third-parties from any responsibility or cause of action arising from or related to the illegality or nullity of the outstanding debt of the Authority that is refinanced, retired or cancelled (defeased) through said Bonds. The Bonds shall not constitute a debt of the Commonwealth of Puerto Rico, nor shall they be payable from any funds other than those of the Corporation; and such Bonds shall bear on the face thereof a statement to that effect.

Section 8.- Use of Proceeds of the Bonds; Cancellation (Defeasance) of the Authority's Debt.

The proceeds of the Bond issue shall be used only to pay or fund Upfront Financing Costs. The remaining proceeds, if any, shall be contributed to or on behalf of the Authority or otherwise applied to Approved Financing Costs, as provided in the Financing Resolution; provided that from the proceeds of the first Bond issue priority shall be given to: (i) the refinancing of lines of credit or other short-term debt instruments, such as notes, bonds, promissory notes or other type of interim financing issued or incurred by the Authority in anticipation of the issuance of Bonds of the Authority or Bond Anticipation Notes or BANs issued to achieve the purposes of this Act and applied in the order set forth herein for the use of the proceeds of the Bonds, in the event that the Authority had not already requested lines of credit or other short-term debt instruments to fulfill the purposes of this Act; (ii) the payment of the debt accumulated and outstanding, as of the date of approval of this Act, with the suppliers of goods and services in connection with the implementation of the Capital Improvement Program; (iii) costs related to legitimate labor negotiations of debt pending payment by the Authority; (iv) the completion of the projects of the Capital Improvement Program which began but were not completed as of the date of approval of this Act; and (v) refund to the Authority any amounts paid in advance from its operating funds for the Capital Improvement Program. Bonds may also be

issued without the need for the proceeds thereof to be sufficient to remove, cancel (defease), or refinance a portion of the outstanding debt of the Authority.

Upon payment or defeasance of all Bonds and all related Financing Costs, all amounts held or receivable by the Corporation or any Financing Entity shall be used to refund or credit Customers on the same basis that Revitalization Charges were imposed, to the extent that such refund or credit is practical. Any failure by any person to apply the proceeds of the Bonds in a reasonable, prudent, and appropriate manner or otherwise to comply with any of the provisions of this Act (including any Financing Resolution or applicable Trust Agreement or any agreement between the Corporation and the Authority) shall not invalidate, impair, or affect any Financing Property, Revitalization Charge, or Bonds. Bond proceeds and any net savings that this transactions may generate for the Authority under no circumstances shall be allocated for capital improvement projects other than those related to works, investments, or improvements of water and/or sanitary sewer services and areas where services are rendered directly to the Customers, nor for any type of construction or improvements to the Authority's management offices or headquarters, except for such constructions, investments, or improvements that are strictly necessary to meet the requirements of a health, safety, and compliance entity and/or those that generate efficiencies or savings as a result of technological improvements or information systems.

#### Section 9.- No Recourse

Bonds shall be without recourse to the credit or any assets of the Corporation, the Authority, the Commonwealth of Puerto Rico, any Third-party Biller, any Servicer, Co-Servicer, escrow agent, or other Financing Entity, other than the Financing Property, and other assets and revenues specified in the applicable Financing Resolution, Trust Agreement, or other applicable security document.



## Section 10.- Legal Standing

(a) Subject to the limitations set forth in the Financing Resolution or related Trust Agreement, the Corporation or any other holder of Financing Property, or the applicable Trustee, (1) shall be authorized to hire consultants, attorneys, and other Persons and enter into such agreements as the Corporation, other holder, or Trustee deems necessary to enforce and collect the Revitalization Charge Revenues or protect the Financing Property and include the cost thereof as a Financing Cost, and notwithstanding any other provision of law, (2) shall be hereby expressly authorized to (i) bring legal actions against any owner of the System Assets, any Servicer, or any other Person authorized to bill or collect Revitalization Charges, any Customers or any other Person for failure to bill, pay, or collect any Revitalization Charges constituting part of the Financing Property then pledged as security for such Bonds, (ii) enforce any other provision of this Chapter or action taken by the Corporation with respect thereof, (iii) take any other action as the Corporation, other holder of Financing Property, or the Trustee may deem necessary to enforce and collect the Revitalization Charge Revenues, or (iv) protect the Financing Property in accordance with the terms of the Financing Resolution related thereto and the applicable Bonds, regardless of whether an event of default has occurred. No action may be brought by the Corporation, the Trustee, or the party to any Ancillary Agreement or on their behalf (other than through the Authority or any successor Servicer) against any Customer for failure to pay any Revitalization Charge insofar as the Authority or any successor Servicer is fulfilling its obligations under the Servicing Contract with respect to the enforcement of any collection of charges (including Revitalization Charges) due from such Customer.

(b) Any court shall have jurisdiction over any actions for failure to impose, bill, pay, or collect any Financing Charges or for enforcement of any provision of this Act.

(c) The Financing Property may be transferred, sold, conveyed, or assigned (including an action to foreclose on the Financing Property) to any person, subject to the terms of any Trust Agreement, even after the occurrence of an event of default, and while such agreement is in effect with respect to the Bonds.

Section 11.- The Corporation is not a Public Utility

The Corporation shall not be deemed to be an aqueduct and/or sewer company or a company that produces drinking water or collects and disposes of sanitary sewer waters, public utility or person providing utility services for general use.

Section 12.- Termination of Corporation.

The corporate existence of the Corporation shall continue until terminated by law, but no such law shall take effect so long as the Corporation shall have bonds, notes, or other obligations outstanding, unless provisions have been made for the payment thereof in accordance with the terms thereof.

Section 13.- Commonwealth Non impairment and Bankruptcy Covenant.

Notwithstanding any provision of this Act or any other law of the Commonwealth of Puerto Rico, prior to the date that is one (1) year and one (1) day after the Corporation no longer has any Bonds outstanding or any Ancillary Agreement with payment obligations that have or may become due thereunder, the Corporation shall have no authority to file a petition for relief as a debtor under any chapter of the Federal Bankruptcy Code or any other bankruptcy, insolvency, debt composition, moratorium, receiver, or similar federal laws or any bankruptcy, moratorium, debt adjustment, composition or similar laws permitting the stay or delay of payment or the discharge or reduction in amount owed on any Bonds as may, from time to time, be in effect, and no public official, organization, entity, or other Person shall authorize the Corporation to be or become a debtor under Chapter 9 of the 'Federal Bankruptcy Code', or similar federal law, or under any such law of the Commonwealth of Puerto Rico, during such period. The Commonwealth of

Puerto Rico hereby covenants with the holders of Bonds and the parties to any Ancillary Agreements that the Commonwealth of Puerto Rico shall not limit or alter the denial of authority under this Section 13 during the period referred to in the preceding sentence. The Corporation shall include, acting as agent of the Commonwealth of Puerto Rico this covenant as an agreement of the Commonwealth in any contract entered into with the holders of the Bonds or parties to such Ancillary Agreement.

The Commonwealth of Puerto Rico further covenants, pledges, and agrees with the holders of any Bonds and with those Persons that enter into contracts with the Corporation, including parties to any Ancillary Agreement, pursuant to the provisions of this Act, that after the issuance of Bonds, the Commonwealth of Puerto Rico shall not authorize the issuance of debt by any public corporation and government instrumentality of the Commonwealth of Puerto Rico or any other Person whose debt is secured by Financing Property or any other rights and interests in rates, charges, taxes, or assessments that are separate from rates and charges of the Authority and that are imposed on Customers to recover the Ongoing Financing Costs of such debt, if upon the issuance of such debt, the security for any Bonds or such Ancillary Agreements shall be materially impaired. It shall be assumed that such security shall not be materially impaired if upon the issuance of such debt, the credit ratings for the then outstanding Bonds (without regard to any third-party credit enhancement) shall not have been reduced or withdrawn. The Corporation is hereby authorized and directed as agent of the Commonwealth to include this covenant as an agreement of the Commonwealth of Puerto Rico in any contract entered into with the holders of the Bonds or such Persons.

The Commonwealth of Puerto Rico further covenants, pledges, and agrees with the holders of any Bonds issued under this Act and with those Persons that enter into contracts with the Corporation, including parties to any Ancillary Agreement,

pursuant to the provisions of this Act, that it shall not limit, alter, impair, postpone, or terminate the rights conferred in this Act, any Financing Resolution and related agreements, including the requirements in Sections 4(b)(3) and 7(h) of this Act, until such Bonds and the interest thereon are paid or legally cancelled (defeased) in accordance with their terms, and such other contracts are fully carried out by the Corporation. The Corporation shall include, as agent of the Commonwealth of Puerto Rico, this covenant as an agreement of the Commonwealth of Puerto Rico in any contract entered into with the holders of Bonds.

The Commonwealth of Puerto Rico also covenants, pledges, and agrees with the holders of any Bonds issued under this Act and with those Persons that enter into other contracts with the Corporation, pursuant to the provisions of this Act, that after the issuance of Bonds, neither the Commonwealth of Puerto Rico nor any agency, public corporation, municipality, or other instrumentality thereof shall take or permit any action to be taken to limit, alter, reduce, impair, postpone, or terminate the rights conferred in any Financing Resolution, including those related to Revitalization Charges and the related Adjustment Mechanism, as the same may be adjusted from time to time pursuant to the applicable Financing Resolution, in a manner that impairs the rights or remedies of the Corporation or the holders of the Bonds, parties to any Ancillary Agreement or any Financing Entity or the security for the Bonds or Ancillary Agreements, or that impairs the Financing Property or the billing or collection of Revitalization Charge Revenues. Neither shall the amount of revenues earned from Financing Property be subject in any way to limitation, alteration, reduction, impairment, postponement, or termination by the Commonwealth of Puerto Rico or any agency, public corporation, municipality, or other instrumentality thereof (except as contemplated by the Adjustment Mechanism). The Corporation shall include, as agent of the Commonwealth of Puerto Rico, this covenant as an

agreement of the Commonwealth of Puerto Rico in any contract entered into with the holders of the Bonds or parties to such Ancillary Agreement.

Section 14.- Rules of Interpretation; Effectiveness of this Act.

(a) The powers and authorities conferred upon the Corporation by this Act shall be construed liberally so as to promote the development and implementation of the public policy set forth in this Act. Notwithstanding as otherwise provided by law, no approvals, notices, or authorizations, except for those specified in this Act, shall be required with respect to the transactions and contracts authorized in or provided for in this Act.

(b) In the event of conflict between this Act and any other law, the provisions of this Act shall prevail.

(c) Effective on the date that Bonds are first issued under this Act, any action allowed under this Act and taken by the Corporation, the Authority, a Servicer or other collection agent, a Financing Entity, a holder of the Bonds or a party to an Ancillary Agreement shall remain in full force and effect even if any provision of this Act is held to be void or is voided, superseded, replaced, repealed, or expires for any reason.

(d) If any Section, subsection, paragraph or subparagraph of this Act or the application thereof to any Person, circumstance, or transaction were held to be unconstitutional or invalid by a court with competent jurisdiction, said holding shall not affect the constitutionality or validity of any other Section, subsection, paragraph, or subparagraph of this Act or its application or validity to any Person, circumstance, or transaction, including the irrevocability and Non-bypassability of any Revitalization Charge imposed pursuant to this Act, the validity of the Bonds or their issuance, the transfer or assignment of Financing Property, or the collection and recovery of Revitalization Charge Revenues, but shall be limited in its operation to the clause, sentence, paragraph, subsection, Section, or part thereof directly

involved in the dispute where such judgment shall have been rendered. To such effects, the Legislative Assembly of Puerto Rico hereby declares that the provisions of this Act are intended to be severable and that said Legislative Assembly would have approved this Act even if any Section, subsection, paragraph, or subparagraph of this Act held to be unconstitutional or invalid had not been included in this Act.

(e) The Corporation may include in the Authorizing Resolution or Resolutions any terms and conditions deemed necessary for the issuance of Bonds authorized by this Act, including the consent to the application of New York State laws and to the jurisdiction of any state or federal court located in the Borough of Manhattan, New York City, New York, in the event of a claim related to said Bonds, and may also include in the Trust Agreement, the Servicing Contract, and Ancillary Agreements that the same shall be governed by the laws of the State of New York. Notwithstanding the foregoing, all matters of constitutional and statutory law of the Commonwealth of Puerto Rico (including this Act and any Financing Resolution), all the rights of the Corporation or the Servicer against any Customer by virtue of this Act, and of the effect of the judgments and decrees of the courts of the Commonwealth of Puerto Rico, shall in any case be governed by the laws of the Commonwealth of Puerto Rico. Notwithstanding as otherwise provided in this Act, any proceeding commenced and conducted pursuant to the provisions of Sections 7(b) or 7(c) of this Act shall be filed with the Court and follow the procedures established therein.

## **CHAPTER 2.- AMENDMENTS TO ACT NO. 40 OF MAY 1, 1945, AS PART OF THE PUERTO RICO AQUEDUCT AND SEWER AUTHORITY REVITALIZATION ACT**

Section 15.- Section 3 of Act No. 40 of May 1, 1945, as amended, is hereby amended in its entirety, and substituted to read as follows:

“Section 3.- Governing Board; Officers

The powers of the Authority shall be exercised and its general policy and strategic management shall be determined by a Governing Board, hereinafter the Board which shall be composed of seven (7) members, which shall include: four (4) independent directors appointed by the Governor of the Commonwealth of Puerto Rico, with the advice and consent of the Senate, which shall include: one (1) engineer authorized to practice the engineering profession in Puerto Rico with at least ten (10) years of experience in the practice of said profession; one (1) attorney with at least ten (10) years of experience in the practice of said profession in Puerto Rico; one (1) person with vast knowledge and experience in corporate finance; one (1) professional with expertise in any of the fields related functions delegated to the Authority; one (1) customer representative selected in accordance with the procedure provided hereinafter in this Section; and other two (2) members who shall be the Executive Director of the Mayors Association and the Executive Director of the Mayors Federation.

(a) Independent directors to be appointed by the Governor shall be selected from a list of at least ten (10) candidates to be prepared and submitted to the Governor by a recognized executive search firm for board of director recruitment for institutions of similar size, complexity, and risks as the Authority. The identification of candidates by such firm shall be based on objective criteria such as educational and professional background, and at least ten (10) years of experience in their field. The educational and professional background criteria shall include at least the following fields: electrical engineering, business administration, economics and finances, or law. The list shall include, to the extent practicable, at least five (5) residents of Puerto Rico. The Governor shall evaluate, at his full discretion, the list of recommended candidates and select four (4) persons from the list. If the Governor

rejects any or all the recommended persons, said firm shall submit another list within the next thirty (30) calendar days.

Board members representing customer interests at the time of the approval of this Act shall remain in their office until the terms for which they were elected expire. The member of the Governing Board representing the customers shall be selected by means of an election to be supervised by the Department of Consumer Affairs (DACO, Spanish acronym) to be held in accordance with the procedure provided in this Section, and the Authority shall provide the facilities as well as the financial resources needed for such purposes.

The member elected shall represent the interests of residential, commercial, and industrial customers and shall serve for a three (3)-year term. The members appointed by the Governor shall serve for staggered terms, to wit: two (2) members shall hold office for five (5) years and two (2) members for six (6) years. As the terms of office of the four (4) Board members appointed by the Governor expire, the Governor shall appoint their successors for five (5)-year terms, following the same candidate identification mechanism described above. None of the members appointed by the Governor may hold such office for more than three (3) terms. The mechanism for candidate identification by a recognized executive search firm shall be in effect for fifteen (15) years, after which the Legislative Assembly shall evaluate whether such mechanism shall continue in effect or is rendered ineffective. If the Legislative Assembly renders such mechanism ineffective, it shall determine the new appointment method to be used. The mechanism provided in this Act shall continue in effect until the Legislative Assembly provides otherwise.

All Board members shall meet the director independence requirement under the New York Stock Exchange (NYSE) Corporate Governance Standards; provided, however, that being a customer of the Authority shall not constitute a lack of independence.



Any vacancy in the office of the members appointed by the Governor shall be filled by appointment of the latter, for the unexpired term of the original appointment in the same manner in which they were originally selected, to wit, with the advice and consent of the Senate upon submittal of a list of at least ten (10) candidates by a recognized executive search firm for institutions of similar size, complexity, and risks as the Authority. The identification of candidates by such firm shall be based on objective criteria such as educational and professional background, and at least ten (10) years of experience in their field. The educational and professional background criteria shall include at least, the following fields: electrical engineering, business administration, economics and finances, or law. The list shall include, to the extent practicable, at least five (5) residents of Puerto Rico. The Governor may use the latest list submitted for his/her consideration whenever it is necessary to fill a vacancy arising as a result of the resignation, death, disability, or substitution outside of the original term of the member being substituted. The designation of a substitute shall be made within six (6) months after the vacancy occurs. However, any vacancy in the office of the members elected to represent customers shall be filled in accordance with the election process regulated by DACO, within one hundred twenty (120) days after the date on which the vacancy occurred, and a new three (3)-year term shall begin to run.

No person shall be appointed to fill a vacancy in the Board during the electoral prohibition period, unless it is an essential requirement for the Board to have a quorum. In these cases, such appointment shall expire on January 1st of the following year. Given the terms and mutual commitments as well as the urgency of implementing the Authority's restructuring, this prohibition shall not apply to the electoral prohibition period applicable to the year 2016.

In addition to the independence requirements under the New York Stock Exchange (NYSE) Corporate Governance Standards that shall apply to all Board

members, no person may become a Board member (including the members representing customer' interests) if such person: (i) is an employee, retiree, or has any direct or indirect substantial economic interest in any private company with which the Authority has entered into contracts or with whom it engages in transactions of any kind, including borrowing money or providing raw material; (ii) within three (3) years before holding office, has had a business relationship with or any commercial interest in any private company with which the Authority has entered into any contracts or with whom it engages in transactions of any kind; (iii) has been a member of a local or central directing body of a political party registered in the Commonwealth of Puerto Rico, during the year immediately preceding his appointment; (iv) is an employee or official of the Authority, or is an employee, member, advisor, or contractor of any of the Authority's labor unions; or (v) has failed to provide a certification of having filed income tax returns during the five (5) preceding taxable years, a certification of having no outstanding debt issued by the Department of the Treasury, a certification of having no debts outstanding with the Authority, a Certificate of Criminal Record issued by the Puerto Rico Police Department, as well as negative certifications of the Child Support Administration (ASUME, Spanish acronym) and the Municipal Revenues Collections Center (CRIM, Spanish acronym) or has failed to meet all other requirements applicable to any person interested in becoming a public official.

No independent member of the Board may be a public employee, except for the professors of the University of Puerto Rico system.

The independent Board members and the customer representative shall receive for their services the compensation determined by the Board unanimously. If unanimity cannot be reached, then the Governor shall determine the compensation of the members. Such compensation shall be comparable to that earned by Board members in water utility companies of similar size, complexity, and risks as the

Authority, taking into account the nature of the Authority as a public corporation of the Commonwealth of Puerto Rico and, in any case, that is sufficient to attract qualified candidates.

The Board's compliance with the industry's governance standards shall be evaluated at least every three (3) years by a recognized consultant with expertise in the matter and broad experience providing advice to boards of directors of entities whose income, complexity, and risks are similar to those of the Authority. Said report shall be submitted to the Governor. The executive summary with the findings and recommendations of said report shall be published by the Authority.

The Board existing as of the approval of the 'Aqueduct and Sewer Authority Revitalization Act' shall continue carrying out its duties until the expiration of their respective terms of appointment.

Regular and special meetings of the Board shall be simultaneously broadcasted on the Internet and subsequently posted on the Authority's website, except for those meetings or portion thereof when the following subjects are discussed: (i) privileged information in accordance with the Rules of Evidence of Puerto Rico; (ii) information related to collective bargaining, labor-related disputes, or personnel-related issues such as appointments, evaluations, disciplinary actions, and dismissal; (iii) ideas with regard to the negotiation of potential Authority contracts or a determination to rescind or terminate contracts in effect; (iv) information of strategies regarding lawsuits of the Authority; (v) information of internal investigations of the Authority while these are still being conducted; (vi) aspects regarding the intellectual property of third parties; (vii) trade secrets of third parties; (viii) issues that the Authority should keep confidential in accordance with any confidentiality agreement; or (ix) matters of public security involving threats against the Authority, its property or employees. Likewise, Board members and individuals participating at meetings not broadcasted due to the aforementioned

reasons shall keep the matters discussed in said meetings confidential until there is no longer a need for confidentiality or they are required by law to disclose such information. To the extent possible, such meetings shall be broadcasted live at the commercial offices of the Authority, and the recording thereof shall be available on the Authority's website on the business day following the meeting. Any recording shall be readily available on the Authority's website for at least six (6) months after the date on which it was initially posted. Once such term elapses, recordings shall be filed in a place where the citizenry may access them for further review.

The Authority shall notify on its website and its commercial offices, the schedule of the regular meetings of the Governing Board along with the agenda of both the last and the next Board meetings. Furthermore, the minutes of the work carried out during regular and special meetings of the Board shall be posted on the Authority's website, once these are approved by the Board in a subsequent meeting. Prior to posting such minutes, the Board shall also approve the version of each minute to be published, deleting: (i) confidential information in accordance with the Rules of Evidence of Puerto Rico; (ii) information related to collective bargaining, labor-related disputes, or personnel-related issues such as appointments, evaluation, disciplinary actions, and dismissal; (iii) ideas relating to the negotiation of potential Authority contracts or a determination to rescind or terminate contracts in effect; (iv) information of strategies regarding lawsuits of the Authority; (v) information of internal investigations of the Authority while these are still being conducted; (vi) aspects regarding the intellectual property of third parties; (vii) trade secrets of third parties; (viii) issues that the Authority should keep confidential in accordance with any confidentiality agreement; or (ix) matters of public security involving threats against the Authority, its property or employees. The Secretary shall propose, for the Board's approval, the text of the minutes and the text to be deleted from the version

to be published. It shall be understood as ‘minute’ a written account of the matters transacted, addressed, or agreed on by the Board.

In the case of a conflict between the provisions of this Section and the provisions of Act No. 159-2013, as amended, directing all of the public corporations and instrumentalities of Puerto Rico to broadcast their Boards’ meetings on their websites, the provisions of this Act shall prevail.

At least once a year, the Board shall hold a public meeting to answer questions and address the concerns of customers and the citizenry in general. People attending such meeting may ask questions to the members of the Board about issues related to the Authority. Such meeting shall be notified at least five (5) business days in advance in a newspaper of general circulation and on the Authority’s website.

(b) Procedure to Elect Representatives of customers’ Interests.

(1) DACO shall approve regulations to implement the election procedure provided in this Section. Said regulatory procedure shall comply with the provisions of the Uniform Administrative Procedures Act, Act No. 170 of August 12, 1988, as amended, and the contents thereof shall be consistent with this Act.

(2) On or before one hundred twenty (120) days prior to the expiration of the term of each representative of customers’ interests in the Governing Board of the Aqueduct and Sewer Authority, the Secretary of DACO shall issue a notice of elections, whereby the requirements to be nominated as a candidate shall be specified. The notice of election shall be published by means of media advertisement, on the Authority’s and DACO’s websites, and mailed to customers along with the Authority’s bill.

(3) The Secretary of DACO shall design and distribute the Request for Nominations form, in which every person aspiring to become a candidate shall state under oath, his/her name, personal circumstances, street and mailing address, telephone number, place of work, profession, relevant work experience, education,

and account number with the Authority. The form shall also provide that, once the candidates are elected, they shall submit sufficient information attesting to their compliance with the New York Stock Exchange Corporate Governance Standards. The request for nomination as representative shall include the signature of at least fifty (50) customers, along with their name, address, and account number with the Authority, who endorse the nomination of the aspirant. Furthermore, aspirants shall enclose a letter bearing the letterhead and signature of one (1) official of each commercial or industrial customer certifying the endorsement of such aspirant. Such request forms shall be available on the Authority and DACO's websites to be filled out completely on digital format by aspirants.

The Secretary of DACO shall include in the regulations a mechanism to validate endorsements pursuant to the purposes of this Act. The regulations shall provide that the results of the endorsement validation process shall be certified by a notary. Likewise, such regulations shall include the requirements to be met by candidates in accordance with this Act and other applicable laws. Every candidate must be a bona fide Authority customer.

(4) On or before ninety (90) days prior to the expiration of the term of each representative of customers' interests, the Secretary of DACO shall certify as candidates the seven (7) nominees under each one of the two customers' interests representative categories who have submitted the highest number of endorsements and have met all other requirements established in this subsection. Provided, that each one of the selected candidates may designate a person to represent him in the process and during canvassing.

(5) On or before sixty (60) days prior to the expiration of the term of each representative of Customers' interests, the Secretary of DACO, in consultation with the Secretary of the Authority's Governing Board shall proceed with the design and printing of ballots, and the canvassing. The design of the ballot for the

representative of residential customers' interests shall include a space for the signature of the customer casting the vote and a space for the residential customer to write his account number and the mailing address where the Authority's water and sewer bill is received. The ballot for the representative of commercial or industrial customers' interests shall include a space where the customer shall write his account number, and where the name, title, and signature of an officer authorized to cast the vote in representation of said customer shall be included. The ballot shall advise that the vote shall not be counted if the customer fails to sign or write his account number thereon.

(6) Ballots shall be distributed by mail along with the service bill to each customer.

(7) Each one of the candidates selected as customers' interests representative shall designate one person to represent him during the process, and such persons, together with a representative of the Secretary of DACO and a representative of the Secretary of the Board shall compose an Election Committee, which shall be chaired and directed by the representative of the Secretary of DACO.

(8) The Election Committee shall prepare and post prominently on the Authority's website information of the candidates that enable customers to pass judgment on such candidates' abilities.

(9) The Election Committee shall enter into public service collaboration agreements with the different mass communication media in Puerto Rico to promote the election process among the Authority's customers and to introduce all aspirants, under equal conditions.

(10) The Election Committee, within ten (10) days after the deadline to receive ballots shall begin the canvassing and notify the results thereof to the Secretary of DACO, who shall certify the candidates-elect and notify such

certification to the Governor of the Commonwealth of Puerto Rico and the Chair of the Board.

(c) The duties of the members of the Board shall not be delegated. The Board shall meet as often as determined by the Board itself, which shall never be less than once a month.

(d) Four (4) members of the Board or, in the case of vacancies on the Board, a majority of Board members shall constitute a quorum to conduct the business thereof, and for any other purposes and to reach any agreement of the Board an affirmative vote of not less than four (4) members shall be required.

However, the following actions shall be approved by not less than five (5) Board members:

(1) The selection and appointment of the Chair and Vice Chair of the Board;

(2) the appointment, removal, and determination of the compensation of the Executive President of the Authority; provided, that the Executive President who holds the office of director, if that were the case, may not intervene in these matters;

(3) the appointment, upon previous recommendation of the Executive President of the Authority, and the removal and determination of compensation of any Executive Officer of the Authority in accordance with the provisions of this Act;

(4) the approval or termination of any management contract with a private operator or any amendment thereto;

(5) the approval of any collective bargaining agreement or any amendment thereto;



(6) the authorization of the exemption of the bidding requirement for construction, procurement, or other contracts, as provided for in Section 11 of this Act;

(7) the approval of rate structures or changes to thereto and the imposition of fees, rents, and other charges for the use of facilities or services of the Authority; and

(8) the approval of the long term Capital Improvement Plan.

Unless the regulations of the Authority prohibits or restricts it, any action that may be necessary to take at any meeting of the Board or any of the committees thereof, except for actions that require the approval of not less than five (5) members Board, may be authorized without a meeting, provided that all members of the Board or committee thereof, as the case may be, provide their written consent to such action, which document shall be included as part of the minutes of the Board or of the committee thereof, as the case may be. Except as otherwise provided in the regulations of the Authority, the members of the Board or any of the committees thereof may participate by conference call or other means of communication, whereby all participants may be heard simultaneously, at any meeting of the Board or any of the committees thereof. The participation of any member of the Board or any of the committees thereof in the aforementioned manner shall constitute attendance to said meeting. Regular, special meetings of the Board and the committee thereof shall be closed. However, the agendas and minutes of the work carried out during regular and special meetings of the Board shall be posted on the Authority's website, once these are approved by the Board in a subsequent meeting. Prior to posting such minutes, the Board shall also approve the version of each minute to be published, deleting: (i) confidential information in accordance with the Rules of Evidence of Puerto Rico; (ii) information related to collective bargaining; (iii) ideas relating to the negotiation of potential Authority contracts; (iv)

information of strategies regarding lawsuits of the Authority; (v) information of internal investigations of the Authority while these are still being conducted; (vi) aspects regarding the intellectual property of third parties; and (vii) trade secrets of third parties. It shall be understood as ‘minute’ a written account of the matters transacted, addressed, or agreed on by the Board.

(e) All Board members shall meet the director independence requirement under the New York Stock Exchange (NYSE) Corporate Governance Standards; provided, however, that being a customer of the Authority shall not constitute a lack of independence.

(f) Code of Ethics.- The Board shall adopt a Code of Ethics that shall govern the conduct of its members and staff. Among its objectives, the Code of Ethics shall require that the conduct of the members of the Board and its staff be governed at all times by the public interest and the interest of customers, and the best practices of the energy industry, and not by the pursuit of personal gain or profits for other natural or juridical persons; require and oversee that there is no conflict of interests and immediately clarify any apparent conflict of interests that may call into question the loyalty and fiduciary duty of the members of the Board and its staff with the interests of the Authority and of its customer; require that every Board member shall be duly prepared to attend regular and special meetings, and be able to deliberate on the Authority’s matters; and provide the tools to prevent, orient, guide, and adjudicate on all that pertains to compliance with the ethical duties and responsibilities of all individuals regulated by the Code of Ethics of the Board. In addition, the Code of Ethics shall be designed in accordance with the best governance practices of the electric power industry and consistent with the applicable ethical rules, such as the provisions of the ‘Puerto Rico Government Ethics Act of 2011.’

Actions taken by the Board and the members thereof, as well as the Executive Officers and their respective staff shall be governed by the highest duties of loyalty,

due care, competence, and diligence for the benefit of the Authority and the public interest of providing an essential quality public service to customers through just and reasonable rates consistent with sound fiscal and operational practices that provide for an adequate service at the lowest reasonable cost to ensure the reliability and safety of the System. Members shall not represent any creditor nor interests other than those of the Authority.

(g) The Board shall adopt an internal Code of Ethics that shall govern the conduct of its members and staff, including the Executive Officers and their respective staff. Among its objectives, the Code of Ethics shall require that the conduct of Board members, and the Executive Officers and their respective staff be governed at all times by the public interest and the interest of customers, and the best practices of the water utility industry, and not by the pursuit of personal gain or profits for other natural or juridical persons; require and oversee that there is no conflict of interests and immediately clarify any apparent conflict of interests that may call into question the loyalty and fiduciary duty of Board members and the Executive Officers and their respective staff with the interests of the Authority and of the customers thereof; require that every Board member, Director, officer or executive employee shall be duly prepared to attend regular and special meetings, and be able to deliberate on the Authority's matters; and provide the tools to prevent, orient, guide, and adjudicate on all that pertains to compliance with the ethical duties and responsibilities of all individuals regulated by said Code of Ethics. In addition, the Code of Ethics shall be consistent with other applicable ethical rules, such as the provisions of the 'Puerto Rico Government Ethics Act of 2011'.

In addition, the provisions of Sections 4.1 through 8.5 of the Act No. 1-2012, as amended, known as the 'Puerto Rico Government Ethics Act' shall apply to the directors, Executive Officers and their respective staff.

The directors and Executive Officers shall be required to ensure and enforce, and shall take any actions as necessary to enforce the strict compliance with the following prohibitions by all employees of the Authority, as well as by their contractors, in addition to any other legal provision prohibiting such conduct and activities, including, but not limited to:

(1) solicit or contribute money or make contributions either directly or indirectly to political organizations, candidates or parties on the premises or property of the Authority, and during working hours; and in the case of directors and Executive Officers, to solicit or collect money contributions or to contribute, directly or indirectly, to political organizations, candidates or parties;

(2) support political aspirations or engage in a political campaign to hold or support someone who runs for an elective public office or any position in the management or organization of a political party or to participate in partisan political campaigns of any kind, on the premises or property of the Authority, and during business hours;

(3) make public statements, comments, or remarks regarding partisan political issues or acts on the premises or property of the Authority, and during working hours;

(4) use or display any political symbol, insignia, logo during business hours or on premises of the Authority;

(5) coerce, obligate, command, or require other employees or contractors to make financial contributions, pay membership fees or carry out or engage in partisan political activities while they are on duty;

(6) influence, favor or attempt to favor, or restrict or attempt to restrict, intervene or attempt to intervene in the employment opportunities and conditions, or the opportunities of contractors to enter into contracts or continue to contract with the Authority, in exchange for remuneration motivated by political party interests;

(7) request other contractors to vote or further the electoral interests of any political party or candidate, on the premises or property of the Authority, and during working hours;

(8) hold meetings, on the premises or property of the Authority, and during working hours, of associations or groups that promote electoral or partisan political interests;

(9) use the names and logos of the Authority to identify associations or groups promoting electoral or partisan political interests;

(10) any behavior intended to give the impression that the Authority supports associations or groups promoting electoral interests or partisan politics; and

(11) under no circumstances the Authority's premises or property may be used for partisan political activities, nor for fundraising activities to benefit candidates or political parties.

(h) The Board shall appoint an advisory committee to be constituted by seven (7) members and shall include, among others, persons who represent the interests of the communities lacking the appropriate aqueduct and sewer services, the special communities of Puerto Rico, interests related to public health, the interests of the labor sector, and the interests of the environmental sector.

The Advisory Committee shall also consist of one designated member from among the following entities: the College of Engineers and Surveyors of Puerto Rico; College of Master and Journeyman Plumbers of Puerto Rico; the Associated General Contractors of America; the Builder's Association of Puerto Rico; the Puerto Rico Manufacturers' Association; the Pharmaceutical Industry Association; Hotel and Tourism Association; and any other association which in the judgment of the Governing Board, may provide the necessary advice to discharge the duties delegated thereto under this Act.

The following may not be members of the Advisory Committee:

- (1) employees or officials of the Authority;
- (2) Authority's contractors;
- (3) persons holding positions in central or local directing bodies of a political party; and
- (4) any person who has a conflict of interest.

Members appointed by the Board as well as those designated by the entities set forth herein shall serve for a four (4)-year term.

The Advisory Committee shall meet with the full Board at least three (3) times a year, and with the Executive Officers of the Authority as often as the Board or the Executive President deems convenient to present their suggestions, discuss the quality of the services rendered, the needs of the communities, the Capital Improvement Program, and any other matter that the Board, the Executive President or the Advisory Committee deems necessary.

The Advisory Committee shall also submit two annual reports to the Board and to the Legislative Assembly, which shall discuss their observations and provide comments and recommendations to the Authority's Capital Improvement Program, as provided in this Act, and whereby the Authority's compliance with the implementation plans, budgets and schedules related to Capital Improvement Program shall be supported.

The Board shall adopt the norms for the operation of the Advisory Committee.

The members of the Advisory Committee shall not intervene in the formulation and implementation of public policy, and therefore, shall not be considered public officials for purposes of Act No. 1-2012, known as the 'Puerto Rico Government Ethics Act of 2011.'

(i) Without limiting the general provisions regarding improper conduct, as well as ethical and fiduciary duties provided for in this Act, including the

confidentiality duty, no independent member of the Board, or any Executive Officer of the Authority shall:

(i) contribute money or make contributions either directly or indirectly to political organizations, candidates or parties while holding office;

(ii) seek political office or engage in a political campaign to hold or support someone who runs for an elective public office or any position in the management or organization of a political party or to participate in partisan political campaigns of any kind while holding office;

(iii) make public statements, comments, or remarks regarding partisan political issues or acts while holding office;

(iv) coerce, obligate, command, or require other Board members, officials, or employees to make financial contributions or carry out or engage in partisan political activities while they are on duty; or

(v) solicit while on duty, or coerce, obligate, or require other Board members, officials, or employees to vote or further the political interests of his/her party or candidate of preference.

The Governor may dismiss any independent member of the Board appointed by him for the following reasons:

(i) engaging in the conduct prohibited in this Section ;

(ii) incompetence, clear professional inability, or negligence in the performance of functions and duties;

(iii) immoral or unlawful conduct;

(iv) being convicted of a felony or misdemeanor involving moral depravity or crimes against the public treasury or function;

(v) clear abuse of the Authority or of the discretion bestowed upon him under this or any other Act;

(vi) wanton and willful obstruction of the works of the Board;

- (vii) destruction of the Authority's property;
- (viii) work under the influence of alcohol or controlled substances;
- (ix) fraud;
- (x) violations of the Puerto Rico Government Ethics Act, Act No. 1-2012, or the Code of Ethics that the Board approves as provided in this Section;
- (xi) abandonment of duties; or
- (xii) failure to meet the requirements to become a member of the Board, as provided in this Chapter.

Board members may also be removed from office due to physical or mental disability which prevents them from performing their duties, in this case it shall not be considered a dismissal.

(j) Without impairment to any rights granted under Act No. 104 of June 29, 1955, as amended, known as the 'Act on Claims and Lawsuits Against the Commonwealth,' no present or future member of the Board, official, agent, or employee of the Authority shall be held civilly liable for any action taken in good faith in the discharge of his duties and responsibilities under this Act, unless it is established that he engaged in conduct constituting an offense, deceit or gross negligence, nor shall be liable for any costs incurred in relation to any claim for which they enjoy immunity as provided herein. Furthermore, the Board, any of its individual directors, as well as any official, agent, or employee of the Authority shall be indemnified for any civil liability adjudicated under the laws of the United States of America, unless it is established that he engaged in conduct constituting an offense, deceit, or gross negligence.

(k) No elected official of the Executive or the Legislative Branch or of the municipalities may, directly or indirectly, interfere in the performance or decision-making duties of the Board or the executive officers of the Authority, including, but not limited to, interfering to affect the result or decisions of the executive officers or



the Board on labor relations disputes or determinations; human resources decisions such as appointments and compensations; collective bargaining agreements; determinations in connection with rate review, contracting, service disconnection; determinations regarding the content or implementation of the Capital Improvement Program, and other operational matters or inherent functions of the executive officers and the Board, except in the case of a formal communication or notification of such official as part of his official duties and/or whenever his interference is necessary to protect life, property, or public safety during emergencies.

(1) The Authority shall hold the offices of Executive Officers that the Board creates. The Executive Officers of the Authority shall be those appointed by the Board to hold office as Executive Officers. Executive officers shall include an Executive President, who shall be the chief officer, based solely on experience, ability, and other qualities that especially enable them to achieve the purposes of the Authority; an Infrastructure Executive Director; and the five (5) Regional Executive Directors, from the Metro, North, South, East and West Regions, whose main functions are established hereinafter, in addition to those delegated by the Board, and shall be appointed by the Board and supervised by the Executive President. The Board may create in the future additional Authority executive officer offices, in function of the decentralized managerial structure adopted by this Act and as the needs of the Authority may so require. No Person may become an Executive Officer if he: (i) is an employee, retiree, or has any direct or indirect substantial interest in any private company with which the Authority has entered into any contracts or with whom it engages in transactions of any kind; (ii) within two (2) years before holding office, has had a business relationship with or any interest in any private company with which the Authority has entered into any contracts or with whom it engages in transactions of any kind; (iii) has been, during the year immediately preceding his appointment, a member of a local or central directing body of a political party

registered in the Commonwealth of Puerto Rico during his appointment; (iv) is an employee or official of the Authority or is an employee, member, advisor or contractor of the Authority's labor unions; or (v) has failed to provide the certification of having filed income tax returns during the five (5) preceding taxable years issued by the Department of the Treasury, a certification of having no debts outstanding with the Authority, a Certificate of Criminal Record issued by the Puerto Rico Police Department, as well as negative certifications of the Child Support Administration (ASUME, Spanish acronym) and the Municipal Revenues Collection Center (CRIM, Spanish acronym). The Executive President and Executive Director of Infrastructure shall hold office for a five (5)-year term. The Regional Executive Directors shall hold office for a five (5)-year term. Regarding the appointments of the Executive President, of the Regional Executive Directors, and the Infrastructure Executive Director, the Board may provide, but shall not be construed as a limitation, the following:

(1) The duties, functions, obligations, and powers delegated by the Board to each one, in addition to those provided for hereinafter; provided, that the Board may not delegate the function of approving all or part of any collective bargaining agreement with the labor unions representing the employees of the Authority, nor the remaining functions provided in subsections (d), (q), and (t) of this section; and

(2) the financial compensation to be paid during the term of his appointment, which may include fringe benefits and bonuses that facilitate the recruitment of professionals of the highest caliber.

(m) Functions of each Regional Executive Director. —

(1) To be responsible for administering and overseeing all assets and employees of the Commonwealth Aqueduct System and the Commonwealth Sewer System within their region.

(2) To design and present for evaluation and approval of the Executive President and then of the Board, the annual budget for his region. Once approved, he shall be in charge of managing said budget in coordination with the Executive President;

(3) To submit to the Infrastructure Executive Director, through the Executive President, the needs for capital improvements he identifies in his region, in order of priority, so that said needs be incorporated into the Capital Improvement Program in the short- and long-term.

(4) To meet with the elected officials of his region to satisfy the demands and needs of citizens;

(5) To submit a report to each mayor of his region and the Legislative Assembly on or before February 15th and August 15th of each year; and

(6) To have all the duties, powers, and authorities conferred by the Board, in accordance with the decentralized management structure adopted in this Act and as the needs of the Authority so require; however, the Board shall not delegate to a Regional Director the functions listed in subsection (l)(1) of this Section.

(n) Functions of the Infrastructure Executive Director. —

(1) To prepare, in coordination with Regional Executive Directors, a Capital Improvement Program that meets the system's needs in the short- and the long-term, and through the Executive President, submit said Program for approval of the Board of Directors.

(2) To administer and execute said Capital Improvement Program according to the priorities established by the Board and the budget and schedule provided for each work under this Program.

(3) To meet with the elected officials to address the claims and needs of the citizens.

(4) To submit a report to the Legislative Assembly on or before February 15th and August 15th of each year.

(5) To also have all the duties, powers, and authorities delegated to him by the Board, in accordance with the decentralized management structure adopted in this Act and as the needs of the Authority so require; however, the Board shall not delegate to him the functions listed in subsection (1)(1) of this Section.

(o) The remaining executive officers of the Authority shall exercise the duties and obligations inherent to their offices and those other duties that the Board may establish. Unless the Board determines otherwise, the executive officers appointed by the Board may delegate to other persons the power of substituting for them during any period of justified absence, as determined by the Board through regulations.

(p) Without limiting other general provisions regarding improper conduct listed in this Section, none of the designated Executive Officers, including the Executive President, the Infrastructure Executive Director and the Regional Executive Directors of the Authority while holding office, shall:

(i) contribute money or make contributions either directly or indirectly to political organizations, candidates or parties while holding office;

(ii) seek political office or engage in a political campaign to hold or support someone who runs for an elective public office or any position in the management or organization of a political party or to participate in partisan political campaigns of any kind while holding office;

(iii) make public statements, comments, or remarks regarding partisan political issues or acts while holding office;

(iv) coerce, obligate, command, or require other executive officers, officials, or employees to make financial contributions or carry out or engage in partisan political activities while they are on duty; or

(v) solicit while on duty, or coerce, obligate, or require other executive officers, officials, or employees to vote or further the political interests of his/her party or candidate of preference.

The Executive President, the Infrastructure Executive Director, and the Regional Executive Directors and other Executive Officers of the Authority may be removed from office by the Board only on the following grounds:

(1) Engaging in immoral or unlawful conduct, or conduct that violates the prohibitions provided for in this Act;

(2) Incompetence, manifest professional inability or negligence in the performance of their functions and duties;

(3) Being conviction for any felony or misdemeanor that implies moral turpitude;

(4) Clear abuse of authority or of the discretion bestowed upon them by this or other laws;

(5) Dereliction of duty; or

(6) Noncompliance with the work plan established or with the guidelines of the Board.

They may also be removed from office due to physical or mental disability which prevents them from performing their essential duties. Removals due to the inability to perform the essential duties of the office shall not be considered a dismissal. These officials shall be evaluated by the Board by means of performance metrics.

(q) When the Board evaluates the composition or modification of the initial regions provided for in this Act, concerning the delimitations thereof or the creation of new regions, it shall take into account the following elements in said analysis and shall be taken into account altogether, within the circumstances, at the time of making the final determination:

- (1) The connectivity of the water transmission systems, the location of hydrographical basins, and the analysis of the best use of said resources;
- (2) the assets and the state of said assets in the Commonwealth Aqueduct System and the Commonwealth Sewer System;
- (3) the needs for improvements in the Commonwealth Aqueduct System and the Commonwealth Sewer System;
- (4) the length of the network and the size of the service area that comprises the region under analysis;
- (5) the population density and the number of current and projected users in the short, medium, and long term within the region;
- (6) the projects proposed for the region within the Capital Improvement Program and all other strategic plans developed by the Board;
- (7) the findings of noncompliance and orders of the environmental and health regulatory agencies, and
- (8) the analysis of the cost-effectiveness of operating the region as is and the cost-effectiveness of operating the potential region under studied under the proposed modification.

The Board shall determine the weight it shall give to each of the above criteria, or others that in its judgment it should ponder, at the time of making decisions concerning the delimitations of the regions. Once the Board concludes any evaluation concerning modifications to the regions, it shall submit for the approval of the Legislative Assembly the determinations together with a report showing the study conducted upon which the Board has based its conclusions. The determination of the Board regarding the new composition of the regions shall be deemed to be approved if the Legislative Assembly, through a Joint Resolution, approves it as submitted by the Board. The Legislative Assembly shall approve or reject through Joint Resolution within a term not greater than ninety (90) days of Regular Session.

Should no action be taken within said term, the determination of the Board shall be deemed to be approved. The Authority shall submit its first regional reorganization plan to the Legislative Assembly on or before June 1st, 2004, for its consideration and approval as provided above. The five (5) initial regions created herein are the Metro Region, North Region, South Region, East Region, and West Region. The study to be presented to the Legislative Assembly on June 1st, 2004, shall include the proposed delimitation of said regions.

(r) Subject to the provisions of subsection (d) of this Section, all executive employees of the Authority shall be appointed, removed, and their compensation determined by the Board, upon recommendation of the Executive President. All executive employees shall be considered executive employees for purposes of the Puerto Rico Labor Relations Act. Executive employees shall not be subject to the administrative control of the private operator generally provided in subsection (w) of this Section.

(s) The Board shall appoint an internal auditor who shall be attached and respond to thereto, and shall have the power to oversee all income, accounts, and expenditures of the Authority to determine whether the same have been made in accordance with the law and the determinations of the Board.

(t) The Board may delegate some of its powers, other than those listed in subsections (d), (m), and (p) of this Section, to the Executive President who shall be the Chief Executive Officer of the Authority and shall be responsible to the Board for the execution of its general policy and the general supervision of the operational phases of the Authority. The Board may also delegate any of its powers, other than those listed in subsections (d), (r, and (u) of this Section to one or more committees thereof or any other Executive Officer of the Authority.

(u) The Board may not delegate to any Board committee, Executive Officer, or private operator, the powers listed in this subsection and subsections (d) and (r) of this Section, or any of the following powers:

(1) The approval the Authority's budget.

(2) The approval of any financing for the Capital Improvement Program.

(3) The contracting of auditing firms.

(4) The hiring of external consultants of the Authority when the amount of the contract exceeds the amount determined by the Board through regulations.

(5) The approval of the sale or alienation on any other real property or real rights; provided, that the Board may delegate to the Executive President or to any other Executive Officer of the Authority the execution of deeds of sale or alienation of real property or real rights.

(6) The approval of the regulations of the Authority and any amendment to or repeal thereof, including the determination of what constitutes just cause to remove an independent director.

(7) The appointment of the internal auditor.

(8) The approval of a three (3)-year operational efficiency and water loss control plan, to be amended every three (3) years, which includes specific initiatives and costs associated therewith, as well as the goals of the Authority. Such initiatives shall include a cost-benefit analysis of the Authority. Notwithstanding the foregoing, a strictly enforceable standard shall be established to measure the increase in the rate of recovery of water loss or unbilled, between 2016 and 2019. The required reduction shall be measured in terms of gallons per day produced in all facilities supplying the distribution system compared to the gallons per day billed to all customers. The net result of such comparison shall reflect at least a five percent (5%) increase in the rate of recovery of water loss or unbilled water, within the



period from the date of approval of the Act to September 30, 2019. No later than October 31st, 2019, the Authority shall file a report with the Secretary of the Senate and the Clerk of the House of Representatives, stating all the measures taken during the initial three (3)-year period stated above, including the projects under the Capital Improvement Program, meter replacement initiatives, and the distribution infrastructure rehabilitation efforts that have been implemented for the purpose of complying with the established operational efficiency standards.

(v) The Board, at its option, may enter into one or more management contracts with one or several private operators, which may be natural or juridical persons that the Board determines are qualified to assume, in whole or in part, the administration and operation of the Commonwealth Aqueduct System, the Commonwealth Sewers System and all those properties of the Authority, as provided in this Act. In the contracts entered into with one or several private operators, the Board may delegate to the private operator any of the powers that it may delegate to the Executive President, except those listed in subsections (d), (r), and (u) of this Section.

(w) Regarding the Management Contracts.—

(1) Each management contract entered into with a private operator shall designate a director of operations, who shall be an employee or agent of the private operator. The director of operations of each private operator shall be responsible for supervising and managing all the tasks agreed upon with the private operator in the management contract. Furthermore, the director of operations shall be in charge of the general supervision of the operational phases of the Authority agreed upon in said contract, and of those additional functions that the Board agrees upon with said operator, by contract.

(2) The private operator or operators, through their respective directors of operations, shall have all the duties, functions, obligations, and powers that,

subject to the limitations described in this Section, are established in the management contract with the Authority, including the following:

(A) General administrative control of all the employees of the Authority.

(B) Negotiation of the collective bargaining agreement with the labor unions that represent the employees of the Authority and the duty and power to appoint, dismiss, and determine the compensation of all employees and agents of the Authority.

(C) Legal responsibility for all their actions in accordance with the duties, functions, obligations and powers set out in the contract with the Authority and the laws of Puerto Rico.

(D) Approval of changes to the organizational structure of the Authority; provided, that it does not affect executive employees and the structure provided in this Section.

(E) Duty to file reports on the operational status and financial activities of the Authority required by law and the management contract entered into with the Authority.

(F) Duty to appear personally to file a semiannual report with the committees appointed by each of Legislative House.

(3) Private operators and their respective directors of operations shall not be deemed to be a public entity, public employer or public employee, as defined in this Act or in any other law or regulations.

(4) The management contract entered into with the private operator(s) shall require the private operator to post a bond in favor of the Authority. The Board shall establish the criteria to determine the amount of the bond, with the recommendation of the Insurance Commissioner.

(5) The management contract entered into by the Authority with one or several private operators shall expressly state that all documents, such as registers, bank accounts and other documents related to the operations of the Authority, shall be kept in the jurisdiction of the Commonwealth of Puerto Rico and shall belong to the Authority.

(6) Every management contract entered into by the Board with one or several private operators shall require that said operator(s) have no debts with government entities; and that if there were debts, they must have availed themselves of a payment plan. Moreover, private operators shall be required to have their accounts and obligations with government entities up to date. They shall also be required to fulfill their tax responsibilities with the Commonwealth of Puerto Rico.

(x) The Board shall comply with the CONSENT DECREE executed between the Authority and the Federal Environmental Protection Agency (EPA), CV-02283 on September 15th, 2015, to complete projects required to maintain water quality; and maintain the watersheds, beginning with the Caño Martín Peña, in San Juan (Appendix O and Capital Improvement Plan) and to expand the service of aqueducts to families, predominantly rural, that do not have it.”

Section 16.- Section 11 of Act No. 40 of May 1, 1945, as amended, is hereby amended to read as follows:

“Section 11.- Construction and Procurement Contracts

Every contract for or procurement of goods or services, except for personal services made by the Authority, including contracts for the construction of its works shall be made through a bidding process. Provided, that if the estimated cost of the purchase or performance of the work does not exceed one hundred thousand dollars (\$100,000), by region, such expenditure may be made without holding a bidding process. However, competitive bidding shall not be required when:

- (1) ...
- (2) ...
- (3) ...
- (4) ...

(5) the expenses are related to the Capital Improvement Program or the operation and maintenance of treatment plants that do not exceed four hundred thousand dollars (\$400,000) in the case of acquisitions, or that do not exceed one million dollars (\$1,000,000) in the case of the performance of works, in which cases the Authority shall request written quotes from at least three (3) supplying sources, previously qualified pursuant to Act No. 164 of July 23, 1974, as amended, if any, or

- (6) ...”

Section 17.- A new Section 22 is hereby added to Act No. 40 of May 1, 1945, as amended, to read as follows:

“Section 22.- Interaction between the Authority and the Puerto Rico Aqueduct and Sewer Authority Revitalization Corporation.-

(a) For purposes of this Act, the following terms shall have the meaning provided in the ‘Puerto Rico Aqueduct and Sewer Authority for the Revitalization Act’:

- (1) Corporation;
- (2) Revitalization Charges;
- (3) Approved Financing Costs;
- (4) Adjustment Mechanism;
- (5) Bonds; and
- (6) Financing Resolution.

(b) In accordance with the Puerto Rico Aqueduct and Sewer Authority for the Revitalization Act, the Authority shall be authorized to the following:

(1) To agree with the Corporation the processes and assistance to be mutually provided to carry out the purposes of said Act;

(2) To provide any pertinent information as necessary so the Corporation may, evaluate and approve the mechanism for the calculation of the Revitalization Charges and the Adjustment Mechanism, and be able to take any other actions needed to issue the Corporation's Financing Resolution;

(3) To act as Servicer to impose, bill, and collect the Revitalization Charges approved by the Corporation and, in accordance with the foregoing and the contracts provisions to that effect entered into between the Corporation and the Authority, to modify its billing model to include the Revitalization Charges;

(4) The Authority shall publish on its website, and on any other means it may deem appropriate, no later than ninety (90) days following the approval of the Puerto Rico Aqueduct and Sewer Authority for the Revitalization Act, the Ten-Year Capital Improvement Program Plan corresponding to the ten (10)- year period following the approval of this Act, whereby, among other issues: the Authority adopts and plans the implementation of the water utility industry's best practices in order to improve its operational efficiency and the monitoring its internal control measures, establishing among others, a three (3)-year loss control plan, to be amended every three (3) years. Such Plan shall include, in addition to the goals of the Authority, specific initiatives and the costs associated therewith, which shall be evaluated annually from the Authority's cost-benefit stand point, and evaluated and approved by the Governing Board of the Authority, as well as evaluated by the Advisory Committee of the Governing Board. Such initiatives shall be made available on the Authority's website for public comment and discussion during a meeting of the Governing Board open to the public. Notwithstanding the foregoing, a strictly enforceable standard shall be established to measure the increase in the rate of recovery of water loss or unbilled water, between 2016 and 2019. The required

reduction shall be measured in terms of the gallons of water produced per day in all facilities supplying the distribution system in comparison to the gallons per day that are billed to all customers. The net result of such comparison shall reflect at least a five percent (5%) increase in the rate of recovery of water loss or unbilled water, within the period from the date of approval of the Act to September 30, 2019. No later than October 31st, 2019, the Authority shall file a report with the Secretary of the Senate and the Clerk of the House of Representatives, stating all the measures taken during the initial three (3)-year period stated above, including the projects under the Capital Improvement Program, meter replacement initiatives, and the distribution infrastructure rehabilitation efforts that have been implemented for the purpose of complying with the established operational efficiency standards. The Ten-Year Plan shall also include the manner in which the Authority shall progressively reduce, within that period, its reliance on external financing, until it represents no more than fifty percent (50%) of the cost of its Capital Improvement Program, excluding for purposes of this calculation financing provided through federal government agencies or federal programs, such as the Office of Rural Development and the Revolving Fund Program.

(5) Any other action or process needed to comply with the ‘Puerto Rico Aqueduct and Sewer Authority Revitalization Act,’ including, but not limited to, taking actions as are necessary and implementing internal cost control measures that promote operational efficiency, promote the reduction and control operating expenses, and generate savings, to prevent increases in the billings sent to the customers of the Authority during the current fiscal year and the next two fiscal years, that is, fiscal years 2015-2016, 2016-2017, 2017-2018, except as stipulated in the Authority’s agreements with its respective bondholders in effect as of date of approval of the ‘Puerto Rico Aqueduct and Sewer Authority Revitalization Act’ Once the ‘Puerto Rico Aqueduct and Sewer Authority Revitalization Act’ is

implemented and the first bond issue in benefit of the Authority is made, it shall give priority to the payment to its suppliers and contractors under the Capital Improvement Program, to whom money is owed to as of the date of approval of the aforementioned Act. By virtue of the approval of the ‘Puerto Rico Aqueduct and Sewer Authority Revitalization Act,’ and the benefits that the Authority shall receive therefrom, the Authority shall review its rate to transfer to its customers the savings and benefits received under said Act.”

Section 18.- Current Sections 22 through 24 are hereby renumbered as Sections 23 through 25, respectively, of Act No. 40 of May 1, 1945, as amended.

### **CHAPTER III.- FINAL PROVISIONS**

Section 3.1- The provisions of this Act shall prevail over any other law previously approved and that is inconsistent with the provisions of this Act.

#### Section 3.2- Severability Clause.-

If any clause, paragraph, subparagraph, article, provision, section, subsection or part of this Act were held to be unconstitutional by a Court with jurisdiction, said holding shall not affect, impair or invalidate the remaining provisions of this Act. The effect of such holding shall be limited to the clause, paragraph, subparagraph, article, provision, section, subsection or part thereof, thus held to be unconstitutional.

#### Section 3.3- Effectiveness.-

This Act shall take effect immediately after its approval; provided, that the effectiveness of Sections 2, 10, 11 and 18 of this Act shall be retroactive to April 6, 2016, date of approval of Act No. 21-2016.